THE LAW OF INTERNATIONAL ECONOMIC RELATIONS

by

F. MÁDL

I. The genesis of the law of international economic relations and its relation to private international law and other branches of law. II. The new response: The 'law of international economic relations' – its notional scope and the principal elements of the content of its subject-matter.

I. THE GENESIS OF THE LAW OF INTERNATIONAL ECONOMIC RELATIONS AND ITS RELATION TO PRIVATE INTERNATIONAL LAW AND OTHER BRANCHES OF LAW

1. *The revolt of the facts against the traditional order of the system in law.* 2. *The jurisprudential concept of the revolt: The unsatisfactory metamorphosis of private international law – The birth of new systems.* 3. *General experiences resulting from the revolt as viewed by jurisprudence.* 4. *The facts in Hungary and the response of Hungarian jurisprudence to them.* 5. *The search for a new response and the earlier systems.*

1. The revolt of the facts against the traditional order of the system in law

In the multitude of the legal issues of the international economic relations so far jurisprudence has failed to build up a clear-cut system that would well correspond to the by themselves lucid words, e. g. to such words as what does private international law conceal today and what can it 'bear'; whether there is an international economic law and, if there is one, what would it consist of, or whether there is a "law of international economic relations", i. e. the eponym of the title. This article (or more thoroughly the larger writing underlying it – *Mádl)* attempts to provide a summarizing survey of the developments. It is meant to be a venture to present a somewhat clearer picture, and to outline, within it, the main features of the "law of international economic relations".

One of the principal causes of the want of clarity in this field is the 'revolt of the facts againts the law" as many describe the actual situation, or 'the explosion in private international law' as others would have it.

Notwithstanding its many major or minor intrinsic contradictions (that it is not only private law, but something extending also to other branches of the law; that it is not only, moreover not in the first place, international; that the erosion of substantive law caused by new winds slowly eats away the surface of conflicts law, etc.) private international law has for many decades, moreover centuries, provided a peaceful and satisfactory framework for international personal relations and material commercial transactions. The cause why facts revolted and a colossal explosion came about lay in the circumstance that private international law or conflicts law not only defended this traditional position of the late 20th century, that in Hungary it could not step out of it even today, but that many thought to bring even the new facts under the cover of this traditional category. The in the beginning humble revolt began when from the end of the past century onwards roughly till the middle of te present century when in some of the domains of international personal relations and material commercial transactions, the unification of substantive law began to take place (international conventions, usages and practices of a trend in this sense, rozuhly in the image of what may be called *lex mercatoria* or the new law merchant). Traditional thinking of private international law (textbooks, monographs, periodical literature) tried to squeeze this body of law into its own framework, although it was fully aware of that this was not anymore private international law. It was, namely, never argued that the designation of private international law stood unambiguously for a uniform concept: it was the connotation of conflicts law.

Yet further facts of a major order have come, and their yet greater revolt, in particular in the second half of the present century. Of these the more essential ones are (the sequence does not represent a scale of value): the strong interventionism of the state even under capitalist conditions in international relations, in particular in the foreign trade relations and their law; owing to the strong internationalization of the economic (technological, productive, investment, commercial) processes by the side of the growth of the traditional exchange of goods, forms of cooperation, large and long term international investments, technological-developmental and payment transactions, commission work, etc. have begun to turn up with great weight. In the domain of industrial property not only the purchase of patents has become a characteristic trait, but also the transfer of scientific-technical development (inventions, 'know-how', etc.) by way of participation in the construction of manufacturing plants operating at this higher technological level. Other facts are the private and state organization of economic competition and the world market; the appearance of the complex systems of economic integrations, the foreign trade monopoly of the state and its planning in the socialist countries; the special interests of the developing countries (the third world) and their dramatic manifestation in the world economic processes (only remember the struggles that took place in UNCTAD and the oil crisis); the endeavours of the states to facilitate and advance international economic relations among others for the reinforcement of peace and security (Helsinki resolutions; the position taken by

the United Nations Organization on the new international economic order and the principles of interstate economic cooperation; the European Economic Commission; UNCITRAL; GATT). Private international law was impotent against these phenomena, this revolt of facts. These phenomena turned up in a colossal amount of norms of a so diverse nature that private international law was at a loss what to begin with them. To serve or to develop them, what would in fact be the function of suitable channels of the law, it was wholly incapable.

The first phase of the revolt, and its result apparently of universal nature, was the supersession of the traditional order by an orderlessness gradually gaining predominance. The borderlines of private international law as a discipline were simply ignored, the dissolution of the traditional notional categories and criteria have become more and more visible, whereas those ahering to the traditional order have found themselves in the negative situation of inertia. Still at many places for a long time also the traditional branches of the law (civil law, commercial law, international law, administrative law) have sliped into the role of inertia, when they haven tried to approach the new phenomena from the side of traditional categories. The other side of the same thing is that these traditional branches and disciplines have tried to get hold of the body of law of the revolting facts and phenomena exclusively in either this or the other traditional framework only to become, owing to their inept domination, the traget of the revolt.

The second phase of the revolt (while the timing is oriented to the content rather than to the temporal sequence of the phases) consists in the efforts to find a new order to replace the anarchy. Efforts are made to interpret scientifically and systematize the new facts and phenomena by having recourse to new theories, new concepts and by outlining new disciplines.

2. The jurisprudential concept of the revolt: The unsatisfactory metamorphosis of private international law – The birth of new systems

In what do these new tendencies, theories and disciplines in reality consist ?

Let us begin our survey in the capitalist world, and even there concerning the world of Common Law. If pragmatism is caracteristic of the one or the other nook of the world of legal thinking, so Anglo-Saxon and mainly American pragmatism may serve as examples. Seemingly this pragmatism has been easily through with the revolt of the facts: it has smashed the inertia of the traditional disciplines almost at a single stroke.

Common Law pragmatism tries to evade theoretical notions or concepts. In this occassionally it goes fairly far also as regards the law and institutions of the international economic relations. E. g. authors write of multi-national concerns, domestic and international state enterprises, still when it comes to speak of notions, of the background or social content, then we may read words like that there are no notions and that it is mean-

ingless to be looking for them because one would anyway be put hard to it when it came to sum them up under uniform notional criteria. Still when we see one (viz. an international state enterprise) then we should be able to recognize it *(Garner)*. After this minimizing of the notions and the search for the social background they rather seriously write e.g. of the international or multi-national enterprise. They offer a complete arsenal of the means law can afford, all that those at the given place would have to know for a success at the given time. Naturally even such a pragmatist literature falls out of its part: first, from time to time it indulges in criticisms, secondly, it lets the cat out of the bag on speaking of the deeper background. This is the case when pragmatist literature ventures on the embellishment of the negative picture of the multi-national concerns *(Mauser)*, or in the same connexion qualifies national sovereighty as a watchword which had its time, "but ultimately mankind will not be able ta evade the choice between the destructive divisiveness of a growing number of national sovereignties, and the abandonment of outworn legal and political structures for the sake of the universal concerns which, in an increasingly overpopulated, polluted and dangerous world, demand the drastic curtailment of national sovereignty for the sake of common surrival" *(Friedmann)*.

Now when we are looking for a scientific, or at least a textbook-like, systematization, then examples will be found for the latter at most, rather than others cousciously well-reflected upon. As regards systematizations of this kind two statements suggest themselves. First, the coherence of the scope delimited by the works given here is either not even explained by the authors, or they will on methodological considerations refer to the one or the other pragmatic cause (the topic is of importance, all that has to be known in the given field, the subject-matter belongs to it because it belongs to it). Secondly, within the material discussed some sort of a complex functionalism dominates as principal consideration, that namely with the multiplicity of the legal means we have to serve the 'social decision-making', the proper operation of foreign trade, and, to this end, the full complexity of the legal means is needed.

Under the heading "The Law and Practice of International Trade" *Schmitthoff* promises a solid, coherent picture of this law, still without any notional or taxonomical principles of distinctions he simple proposes the response of English law to the following principal questions: the subjects of foreign trade, the types of contract and usages of foreign trade; the relevant parts of conflicts law; the function of governmental agencies promoting foreign trade; enterprises, their inner-outer movements and their form; financing of foreign trade and the law of foreign exchange; credits and insurance; industrial property in international economic relations; the system of state licences in exports and imports; state control; customs and taxes in foreign trade relations; disputes and arbitration.

It is more than interesting that in this work there are not even traces of the concept Schmitthoff was working on earlier, the concept namely to which the name of the new law merchant of world trade, the new *lex mercatoria* has been given, and where there is quite a weight of systematizing

consistency. The essence may be summed up as follows: (a) The world economy of the international economic processes outgrowing mere barter trade outgrows the municipal commercial law. (b) For the multiplicity of international commercial transactions more and more a nonimunicipal body of law born in international legislation (convections), usages and legal practice will be normative. (c) The autonomous power of these is increased by harmonizing international arbitration; and, (d) by the legal science activity in comparative law. Schmitthoff sees many of the difficulties of this new system understood in a sectoral or system-creating meaning. E. g. that this body of law is being applied mostly by municipal forums. Consequently it tends to become disintegrated to an extent that relief can be brought only by some sort of uniform world-wire arbitration. He does not mention, however, that this system is apt to burst the legal evelope of municipal and non-municipal origin of the same international economic processes. There is merely reference ot, for that matter hard to grasp, how the traditional private international law will, once come to be extended to the body of substantive law, become related to the branch of world trade law. He fails to speak of, and simply ignores the entire body of law ruling international trade with institutions other than such of civil law. On the other the body of international commercial law of the socialist countries, e. g. the CMEA General Conditions of Delivery of Goods seems to be part and parcel of his conception. Hence all that appears to us in the guise of the autonomous law of world trade, viz. all rules or provisions of international economic relations of the nature of civil (commercial) law, civil procedural law and private international law of non-municipal origin, has as regards its own arrangement three nodal points, viz. the juristic person or legal entity (the subjects-at-law), the contract and, finally, arbitration. In a lecture delivered by the French *R. David* jointly with the Rumanian *T. Papescu* to the 1976 Rome congress of UNIDROIT modern *lex mercatoria* got a new impetus and with it literature received renewed incentives. The principal issues were on the whole the same, enriched by a new element. In the Congress namely also elements of public law came to attract interest, however, the system-building synthetization of the two spheres still remains to be tackled.

The American *Fulda* and *Schwartz* begin their textbook "Regulation of International Trade and Investment" with the remark that they convey an idea of the fundamental questions of the law of foreign trade in a systematic consideration. Eventually it stands out clearly that in the thorough and complex discussion of the several institutions of law they are concerned with two things only, first, with the free movement of goods and investments, and, secondly, with the state (or international) promotion or limitation as the case may be of this. If in the background of their quasi-textbook we were looking for the common denominator giving shape to the subject-matter of the work, which as intended by its authors provides a rather good pragmatic legal instrumentation, then we could discover this common denominator nowhere else but in the expansion-orientedness of American economy.

In the textbook "Law and Institutions in the Atlantic Area" by the in like way American *Stein* and *Hay* in the Contemporary Legal Education Series an idea is conveyed of the law of international economic relations of the what are called Atlantic countries in its almost full complexity. As regards their system, as indicated earlier, methodologically they follow the modern version of functionalism, i.e. they contemplate law from the outlook of political theory, i.e. within the sphere of definite issues they give attention to all means of the law by the application of which social decision-making may be turned to an optimum for the proper functioning of the given institutions, and by this they help the given social system (to) achieve its value targets. This is plain speech at least as far as the general social functions of this sphere of the law are concerned, still the failure to recognize the differentiated nature of the branches of law, its disregard or tacit denial would not necessarily follow from this outlook of the authors, although an explanation of the complexity of functionalism.

We could go on with this survey and the we should again meet the above bodies of law, or part of them, under the headings 'the law of international economic organizations', 'Community law' (this name has been given to the law of the European Economic Communities), 'international commercial law', while innumerous headings like 'international law of transport', 'international cartel law', 'the law of international financial transactions', etc. would also turn up. Here there could hardly be talk of systematization, either as regards the affiliation of the body of law comprised, or the outline of a methodological symbiosis of the legal norms of a multiplicity of nature discussed jointly with the above.

From these facts the following principla statements may be drawn: In the Common Law countries the revolt of the facts announcing the advent of a new age of international economic relations has passed off not within the framework and under the heading of private international law, but wholly outside it. Meanwhile private international law has remained what it traditionally was, namely conflicts law. All that may be talk of is at most that occasionally the particular 'systems' also embrace the conflicts law side of the things, i.e. certain institutions of conflicts law pass through certain modifications, and remain such of conflicts law, yet with a different content. The facts in revolt receive a new legal 'system' or framework, in teaching as well as in legal writing, municipal and international legislation and legal practice, in this field from pragmatic teleology and economic-political functionalism.

It is not as if Common Law jurisprudence did not know what the norms of administrative, criminal, civil, public and private international law are intended for or in what they consist. Only if in certain cases in legal science they go as far as the general methodological investigation of the norms (they rather take the norms as given), as to the building of theoretical systems in the branches of law hardly any interest emerges or developes. If they nevertheless develop systems (e.g. in the form of the organisation of a textbook), in them the theoretical segregation or interdependence of the different branches of law will have hardly any role.

This is the case formally simply because, as in his manual *Les grands systemes de droit contemporains R. David* describes Common Law, European thinking in systems of branches of law, systematization according to the theoretical classifications of public law – private law, civil law – commercial law, etc. are alien to Common Law jurists.

It appears therefore as if owing to the revolt of facts as regards system and systematization we stood before the great *Nihil*. This is, however, an exaggregation and a criticism not addressed to the essence. This "system" is in its scientific unmethodicalness and pragmatism very viable. The jurists' society of the jurists' law operates this huge legal machinery with skill and in an extremely variable manner. There is in the system the knowledge of the very cultivated guildmasters of the use of the tools, and in greater cases also the skill of a conductor, the skill namely required for – the concentrated introduction of a multiplicity of means, moreover, the value – oriented understanding of the functionalism of political theory we have spoken of above. The totality of rules and knowledge sees the wood also and not only the trees, in particular when by the wood we understand the protection of the underlying social-economic system. The Common Law jurists rather omit looking at the wood in order to keep silent on that here is the case of the defence of the capitalist society and economy, the rule of capital, the state monopoly capitalism. Common Law with its inherent case-law approach plays into the hands of this, in particular when the case is one of questions of detail, which by the way constitute the majority. Common Law with its variable, adaptable functionalist pragmatism not tied by taxonomical considerations serves well the movement and orientation of American economy. This is betrayed also by the latest development of American law in the international economic relations and its in the European meaning of the term systemless discipline: there was no system of branches of law which the revolt of facts should have subverted, nor has come such a system into being. If Common Law has as to its essential elements changed for reasons innate in the economic conditions of capitalism of the age, the change is the gathering strength of statute law by the side of judge-made law (strictly speaking the marriage of the two in the 'modern' sense, where the one party is more understanding, the other more tolerant) yet not the abandonment of the reluctance to the formation of theoretical systems. This is the case also when in certain unambiguously homogeneous fields a large-scale development of statute law has set in, e.g. in sales in Britain, or the codification of commercial law in the United States of America, as objective manifestations of the intrinsic pressure for systematization. Ths legislation has not come to be extended beyond the confines to the given part domains and there are not even indications of the whole 'system's falling into a systematizing euphoria.

Europe, on the other hand, has through the centuries of her history passed the school of legal systematization. When did she start to reach the present stage ? In the Roman law of *Justinian* built on a comprehensive system, i.e. in his Corpus Iuris Civilis, there ware already the principles

and systems, a way of thinking emanating from Aristotelian Greek philosophy as absorbed by the Christian forms of thought shaping the mind of the Justinian epoch. This attitude then at a relatively early date met with one of the essences of the centralized political forms of authoritarianism, or more concretely, of the empires, only to buttress up their political and social system with large systems of legislation. Historically this might have been random-like, for it was not this that was the end of the trend of thought of non-Roman origin. The system then grew in strength, moreover, the great men of the national states saw in the large 'codes' their mainstay and the means of the survival of their memory. Napoleon e.g. said, as inscribed on one of the bas-reliefs surrounding his red marble sarcophagus, that it was not his many battles of which he was proudest, but his *Code civil* which would never be forgotten. We may go on with the enumeration of examples illustrating this outlook. On the other hand thinking in terms of comprehensive systems and codifications according to coherent principles has become part and parcel of European legal thinking to an extent that not even socialist Europe could bring about changes in it. This outlook has been thrust in this direction also by the circumstance that social planning of a comprehensive nature, conscious economic organization of necessity insists on legislation appearing in coherent systems.

The first flaw in this fine order of clear-cut and delimited branches of law was the product of state intervention in economy appearing in the late phase of monopoly capitalism (mainly internally, by constructing economic law, or other specialized mixed branches of law, yet by protecting the system as a whole). After the Second World War, however, a serious earthquake shook the system to its fundations. This manifested itself partly in the revolt of the facts growing in intensity against the traditional subsystems (branches and disciplines) and partly in the influence of American pragmatism.

What is the result? Private international law was for a time still predominant: it could absorb certain effects, still thereafter as a relatively well closing system it withdrew from the scene. Its role has been taken over by the pragmatic systems. In these systems pragmatism is (for the scope and the functional complexity of the institutions discussed here) substantially the same as in America. Still in these systems there is system not only in parantheses, but system as virtually existing as the element of European legal thinking, yet truly in two respects only. First, that where it is possible one strives for comprehensive systems as meant by the specific branches of law. Secondly, in the sense that even where a 'system' (textbook, in the scope of law comprised by the discipline) can not demonstrate a theoretically well coherent system, moreover, where it is aware of moving in a sectoral *mixtum compositum* there it will still operate with theoretical categories of the system-building traditions. This manifests itself in the circumstance that the system in this sense theoretically registers the sectoral nature of the legal institutions discussed and so applies them; that in general it reverts, and where possible feeds back, to the parent system of the given institutions of law.

As regards such systems brought about in the world of the law of international economic relations more explicitly, the designations (textbooks, institutes, periodicals, forums, governmental agencies and such of integration) are of a multiple kind: 'international economic law', 'the law of world trade', 'international commercial law', 'the law of international trade', and as regards the economic integrations 'European commercial law', 'European economic law', and 'the law of the European Communities', are the best known and most current of all. Not only the names, but also the systems indicated by them, differ from one another pragmatically.

Batiffol, this authority of private international law in the traditional meaning of the term, with profound judgement writes in the preface of the work of *Loussouarn* and *Bredin*, *Droit du commerce international*, that the originality of the title of the work also expresses a new content. On the one side present day international economic relations are interrelated with the substantive regulation of the domestic relations of economy, and, on the other, the huge fabric of state interventionism prevailing also in this domain, and the enormous complex of municipal and international civil and public law norms have grown to an extent that the authors hardly had another choice than to 'respond in a novel manner to this situation, and to demonstrate the law of international trade in its own development, and not in the congeries of appendices to the particular chapters of private international law'. When viewed from the aspect of the taxonomic disintegration this latter sentence appropriately presents the new situation: the traditional system of private international law has for some time tried to put up with the new facts and cope with them. Eventually, however, the caul of the appendices standing for a temporary solution has ripped and the newborn babe has also grown up, with all the traits, the mixture of the various branches of private and public international law, which were already present in the caul of the appendices of private international law. Here constitutional law, administrative law, commercial law, civil law, public international law, law of procedure, and (now as the reverse of the former situation), for certain institutions, the body of private international law, are all assembled. It is characteristic almost of the totality of completeness or complexity that in the large system of more than thousand pages the corresponding sections of the body of law of the European Economic Community and also the General Conditions of Delivery of Goods of the CMEA have been taken up. All this has been done in a way that the structure of the textbook almost faithfully follows the system of French municipal commercial law. It is only in the particular institutions that the entire world trade has come to be embraced, with almost its entire body of sources, for that matter in a comprehensive complexity with the participation of the branches of law as required by ends followed in this way of functionalism. The authors, to be sure, do not say that their work is a theoretically closed system, still less that it were an autonomous uniform branch of law.

Goldman's *Droit commercial européen* relates only to the relatively auto-

nomous and novel system of norms of the Common Market, to so-called European law. He lays it down as a fact that in this totality of rules almost all branches of law are assembled. He lays it down as a fact thet in this totality of rules almost all branches of law are assembled. He discusses the usual problems of commercial law and of other branches of law of all institutions concerned. The stress has, however, been laid on the external system of conditions (of public international law, constitutional law, administrative law, fiscal law and conflicts law) of operation of the particular institutions, e. g. enterprises.

Whereas *Goldman* in this textbook keeps aloof of theory, the so far most comprehensive and scientifically largest undertaking *Ipsen*'s *Europäisches Gemeinschaftsrecht* tries to cope theoretically also with what he has created: with the conglomerate system of the complexity of norms giving expression to the Western European capitalist economic integration. The term itself, viz. conglomerate system is fraught with contradictions. This has not been altered even by the itself fascinating undertaking of Ipsen, this late descendant of the German creators of theories and systems, to grasp and present this system or to transform the revolt of the facts into an operating power system. In the background of the running condition of the conglomerate system and, indirectly, the system of the work finally there stands both the general and special factor which has created the Common Market and keeps it in a running order, while among the special factors a special position has been occupied by the large legal machinery and the army of jurists, which has acquired a knowledge of the system fed by elements of constitutional law and public international law through administrative elements to labour law and civil law by almost all branches of law, and effectively serves it.

As regards theoretical systematization the principal thesis of Ipsen is that in this community law we have an autonomous field of law in itself closed and coherent. The reason, criterion of independence and coherence and the novelty of this phenomenon is a reflection of the European Economic Community, namely that this is a new, autonomous and in itself coherent organizational and legal form which quantitatively and qualitatively may modify the economic functions of the member states. This will hold also with respect to public international law and constitutional law, inasmuch as regards the origin and basis of validity the total corpus of law is a specific one (the totality of specific treaties and legal norms created at community level, which are directly effective in the activities of the law-enforcing agencies of both the municipal and community level). The coercive element of independence and internal coherence and consequently the decisive core determining the proper notion of community law is eventually the organization itself, i. e. with the Community we have an internationally (regionally) organized economy. By this Ipsen already transgresses the scope of autonomy and internal coherence and enlarges upon the exegesis of the legal-branch-nature of the so-called community law. Organization namely is a broad, complex category, with respect to the branch of law it is strictly speaking a common denominator, which lends itself only for the de-

scription of the field of law or the complex legal system, or at most for outlining these. Since organization is by itself almost boundless, it will be compelled to have recourse to a further delimiting category. And this cogent category is economic law, or rather the criteria underlying it, namely that under modern conditions the state massively interferes in the development of the relations of the subjects at law (in general of the market). Organization can turn this interventionism into a reality only by an intensive combination of the means of public and private law, or as abstractly stated, by the coexistence of the two elements. The final product will willyilly be a new phenomenon, an active combination namely as preconditioned by the cooperation of the component elements, for which history could not say any better or invent for it a better name than economic law. Now in community law, whose independence to the outer world, i. e. external independence in the meaning of what has already been said, the internal nature would be provided by the appearance of economic law at community level. The appearance of economic law provides one of the internal taxonomic essences, this expresses the background economic-social content, and this has the consequential external delimitation by that prompts economic law to claim from the realm of private law or commercial law exactly the portion overshadowed by state and Community intervention. Thus Community law is but a further process of the nutation of economic law, namely the metamorphosis of economic law to Community law. In this new process it is a speciality of the mutation that in it the subject of the norms of economic law is though economy, still the norms grow even beyond it. The organizational and acting structure (e. g. legislation) of the European Economic Community is namely of a weight that Community law defies structuralization only from the substantive side as affected by state intervention. Here also the organizational mechanism will have to be drawn into the orbit, for without this specific organization of transmission state intervention can hardly be imagined. The active interplay of these two planes, viz. the European organization of intervention and the substantive law infiltrated by it provides and interprets economic law transmuted to the level of integration: namely the Law of the European Community.

After what has been said there is not much left over for a summary. The revolt of facts has in the law of the international economic relations of the capitalist countries thrust private international law as a system to the roadside, and absorbed in itself its elements needed for the economic relations whenever this was necessary. The theoretical confines of the branches of law have melted away, the systems *in statu nascendi* develop dependent on the functions and the pragmatic objectives, and eventually on the symbiosis of the capitalist state and the capitalist economic interests, or go on to differenciate (e. g. into Community fiscal law, Community law of competition, etc. in the European Community law). The theoretical foundations of the criteria and systems are either something secondary or the theoretical interpretation of the dependence *ut supra* fed back also to the traditional theoretical categories, an interpretation namely seldom of the critical kind, mostly as a response of active reaction.

The facts which have *mutatis mutandis* broken out in a revolt even in the *socialist countries*, and are still revolting, against private international, we have already seen. What has this revolt become in the jurisprudence of the socialist countries? To have an idea of this four general statements have to be premised of the idea of socialist legal literature and the theory-orientedness of socialist systematization.

First, socialist legal literature was neither in reality nor in tis manifestation pragmatic in the same measure as the jurisprudence of the capitalist world. The taxonomic re-formulations enforced by the revolt of the facts have made their appearance in theoretical verification at all times, with the continuation of the criteria of the classical branches of law, the development of new criteria and the construction of concepts of the theory of science. It is a great asset of theoretical systematization that it has a decided effect also on practice.

Secondly, theoretical systematization is often superabundant. It ties down a surplus of energy and tends to become an inertial burden.

The third statement is a corollary partly of the former. Namely by the side of theoretical-systematizing works there is an out of proportions small number of manual, periodicals or monographs dealing with the many concrete legal institutions of international economic relations, or helping the given conditions of life to live and develop scientifically and in a for practical purposes complex outlook (especially as compared to Western legal literature).

The fourth general statement will require a somewhat lengthier treatment. We shall see *infra* that the similar revolt of similar facts, the in many cases uniform lew (e. g. universal international conventions) will raise similar issues, i. e. issues similar to those emerged in the West, and quite often similar solutions. This is the case even when the similar solutions – organizational, legal or scientific taxonomical forms – eventually serve by nature differing social and economic systems. The particular legal and taxonomical similarities may of course be traced back to the peculiarities of the domain. Namely to the circumstance that there are institutions of the law in whose development, by the side of the relatively smaller role of the production relations, the decisive factors are the almost directpervasive force of the productive forces, the effect of the mutual interests attached to the uniform stability of the international exchange of commodities, etc. et. In these relations, in the legal institutions bringing under regulation modern transport and technological relations the determining role of the productive forces, and their roughly uniformly developed standard, are of primary significance by the side of the general role of the production relations, a role by which the productive relations transmit the command of the productive forces to various, e. g. socialist and non-socialist directions. Consequently the legal form to which recourse has been had will, though it may serve in the one social system the one end in another the other, as *sui generis* legal regulation be uniform or at least similar. This phenomenon has become the ultimate source of the development that within concrete institutions the what may be called East-West syntheses of comparative

law will be not only qualifiable as socially useful legal solutions, but theoretically demonstrable. Thus the for their nature neutral productive forces will lend the guise of legitimacy to the syntheses of comparative law, or to the definite neutral forms of legal regulation, forms which in the possible domains in question will become such owing to the decisive role of the productive forces, which syntheses and forms will become socially committed for two circumstances. First, they will become socially committed because with their operation they discharge functions of active service in the given social-economic system which employs them. Secondly, the syntheses and forms are in the given social-economic system part and parcel of the totality of the legal system of the given type. Meanwhile the principal traits of this totality will be determined by the criteria and the content qualifying the type of law in question as such. These criteria and content will at the same time in accordance with what has been set forth above prevent the according to the form possible neutral forms an legal solutions from bringing about neutral or even foreign processes and results within the system.

In the period before the revolt of the facts the theoretical dispute on systematization was confined to how should private international law be conceived. Than it came to be directed to the notional expansion of private international law.

(a) Historically the problem first emerged in Soviet literature. *Lunts* and *Pereterski* were the two poles. Of the two Lunts, although he believed the norms of substantive law as delimited by the institutions of conflict law to belong to it, took position at the pole of traditional private international law. In his system he dealt with this corpus of law and progessed it to be of the nature of civil law. Pereterski as early as 1946 laid stress on the norms of substantive law, for, as he stated, in reality, too, the stress is on these. He then evolved the conception that this branch was independent of civil law, strictly speaking part of public international law, the case being not one of a municipal civil right, but overwhelmingly of relations brought under regulation by the international conventions of the states. He gave it the name of 'international "public" civil law', or 'International law of commer cial relations.' As *Boguslavskiy* stated in his literary review this conception of Pereterski's was in the following left on a blind siding. Later Pereterski thought that traditional private international law ought to be modernized, and extended its scope to norms of – substantive law come into being on the assumption of – an international element. Whether or not this domain was part of civil law or international law was, as *Kalensky*, too, stated, left unanswered. From the aspect of public international law *Usenko* denied that all that had been brought under regulation by an interstate convention or treaty was therefore part of public international law. If so, this corpus of law would forfeit its specially properly so called, namely that here there was the case of property – commercial – civil law relations. Thus this body of law was left outside the sphere of interest of the Soviet discipline of public international law. Meanwhile Pereterski's conception also lost the thread which else would have still been in the 'inter-

national law of commercial relations', namely the corpus of the law of agreements on international deliveries of merchandise, international banking and credit transactions, the law of international economic organizations. In Lunts's conception all this was absent from the very beginning. In Lunts's new textbook *(Lunts–Marusheva)* this has been omitted even at present and it has been ignored also by municipal civil law. With the gathering of strength by this domain of international economic relations a number of monographs has grown, of monographs namely which in a complex approach have drawn each legal aspect of the given problems within their ambit *(Boguslavskiy, Altshuler, Pozdnyakov)*. This was somehow the appearance of the revolt of facts in the Soviet legal literature of the turn of the 'sixties and' seventies: Protection of the sectoral frameworks, their expansion, resolution, differentiation within the system, opening towards the demands of practice and by this to complexity.

(b) What has passed off in the meanwhile in the other socialist countries?

In Hungarian legal literature *L. Réczei* has taken his stand for the autonomous character of classical private international law, and has defended his position also outwards. At certain places he has for practical purposes allowed a scope for the substantive norms international and municipal civil law. Implicitly he has recognized the need for doing justice to the changed conditions in a potential new arrangement. It was essentially in this spirit that a Rumanian textbook of private international law was published in 1968 *(Filipescu–Jacota)*. *Wiemann* was the first who in 1958 by analysing the notion of the classical private international law entered upon a campaign for 'the law of international economic relations', which would embrace the otality of municipal and international (mainly substantive and not only civil law) legislation moulding the international economic relations. This theory extending to the West–East relations has since been left to itself, although causes for it exist even today, as *Seiffert* has recently made it clear. Afterwards, as will be seen, Seiffert has taken a step forwards at another level and opened towards socialist international economic law.

In the Czechoslovak, Polish and Hungarian literature of private international law in the 'sixties, while the facts were already revolting, for the time being in the guise of directly regulating norms of civil law nature, i.e. in the guise of municipal and international norms, another conception was making headway: namely private international law as enriched by substantive law. Accordingly the notional scope of private international law, by the side of norms of conflict law, i.e. classical private international law, would embrace all directly regulating substantive norms yet of civil law nature, which have turned up in the background of the particular institutions of conflict law, have in a great measure emptied them, only to allow norms of substantive law to take their place in relations defined as the outcome of the unification of substantive international legal norms. This is the common essence of the conception, though with by no means negligible differences made by the various authors. With

M. Világhy it is a domain of law of a doctrinal system. *I. Szászy* takes his stand for an autonomous branch of the law. Practically this is wath the Polish *Jakubowski* professes, whereas the Czechoslovak *Kalensky* does the same with a thorough theoretical analysis. None of these authors expresses his respective opinion without contradictions or by making concessions, as the case may be. They argue that these norms have been born on the assumption of foreign elements. As for their significance these norms weigh more than the conflict rules. They are even closely tied up with the totality of conflict rules, as in the event of incomplete substantive regulation recourse is in each case had to the conflict rule. Further they argue that the method of regulation, which would lend autonomy to conflict law, is an unsatisfactory principle of systematization, and that heed should be given also to the expanding function of the social relations concerned. The reasons on which they are silent are: for all kinds of reasons of instruction, planning, further in want of adequante research capacities (institutes, researchers etc.), and owing to a number of subjective factors this else necessary and important legal material could not 'suddenly' be 'sold under a better name'. To this we have to add the generally valid phenomenon in the law that the new content quite often unfolds itself within the framework of already existing forms, and strive for new forms mostly with further quantitative reinforcement only.

As regards the critique of private international law understood in this wider sense we would refer merely to a few circumstances which this wider concept has refrained from confronting, or has been unable to cope with. First, notwithstanding any dispute on its designation or on other grounds according to 'classical' criteria resulting from both the subject-matter of regulation and the method of regulation classical private international law is an unambiguously segregated branch of law. This is borne out by the very fact that private international law has a general part of its own whose theses are, like in mathematics where the values before the parantheses refer to all values within them, always related to the totality of the rules taken up in the special part. Consequently a properly closing system will come into being. There is trouble enough in the domain under study, why disturb situations which are otherwise clear? The ex-aggregated emphasis of the subject-matter of regulation will eventually lead us to results which though expedient are too vague for the branch of law concerned. This may be correct, though something should not be called a branch of law which it is not. It is simply unimaginable that by the side of the requirements of a uniform notion of private international law in this wide sense any textbook, monograph, i.e. some sort of a scientific system would be capable of embracing, in a proportionate measure, all conflict rules, international procedural law, the domestic status of aliens, and all the substantive norms of municipal or foreign origin which have been born on the assumption of the presence of a foreign element; or by the side of guardianship and conflict rules of labour law all such institutions as e.g. the forms of international payments, copyright, patent law, maritime and air transport or carriage, foreign exchange law, nationalization,

contracts of international sales and others, or a code of international trade of taking up the free international movement of the enterprises, the body of law governing investments of aliens, and the enumeration may still go on. Those ahering to the concept in question could not, of course, go so far. Finally, they have in developing their system relied on the system of conflicts law. They offer the totality of it and then dependent on the demands of practice within the domain of particular institutions extend their view to substantive law too.

The most significant circumstance, however, with which this concept has not reckoned, which has destroyed even the notion of this even vaguer concept of private international law, or at least launches a fierce attack against it, is the yet later revolt of yet later facts, so to say the second wave of revolt. Notably the peculiarity of the latter years in the international economic relations: the mass appearance of qualitatively new forms of cooperation (contracts for cooperation, international investments, joint economic organizations, etc.) and in all these the substantial regulating-participating-guiding role of the states in general, and its formation into large regional systems in international economic integration in particular. This second wave has then burst the dykes, the river has widened, so that it has become navigable only by the joint forces of almost all branches of the law. Yet, like on all rivers carrying a heavy traffic load, some sort of order is needed here too.

This has led to the appearance of the concept of international economic law. Although its system-creating criteria and underlying causes are uniform this conception has three variants of significance at least.

(a) The more general concept is that of *Blagojević*. This concept not only refers international economic law to the new type economic relations of the socialist countries, but turns it into the carrier of universal demands. Economic law is more general also in the meaning of the term which in the argumentation qualifies economic law either as a 'new legal discipline', or as a 'new branch of law'. Finally Blagojevic sums up by stating that 'we have to fight with the approach of a comprehensive international economic law against the reactionary forces entrenching themselves behind the shelter of classical public international law and other traditional branches of law'. In the system-creating element of his concept essentially the idea is implied that here we have to do with the revolutionary metamorphosis of international economic relations (integration, large-scale cooperation at state and enterprisal level, the organizational life and active political and economic activities of states and international economic organizations transforming the international economic relations), relations in which the forced segregation of the traditional branches of law amounts to partly anachronism and retracting forces, relying namely on the totality of rules which have substantially been born for the service of the interests of developed capitalist countries. Against this trend only international economic law uniting the various forms of regulation (international law, fiscal law, the corresponding elements of private law, administrative law, economic law, labour law) is capable of giving expression to the changed

new conditions and of serving them. As regards the universal substantive expansion of international economic law so conceived, this is provided by the following elements: the organism of the international economic organizations moulding international economic relations, its statutes and activities; the relation of the municipal 'levels' to the international regulating systems as specified before, and also to others; the re-formulation of the system of conditions of international economic and financial relations; the legal means of the economic compensation of the former colonial territories and the developed countries; the aid of developing countries with means other than the traditional legal means (earlier namely the developed countries have dictated the means); the transformation of the recommendations of the world commercial conferences into institutions of the law; the traditional institutions of international commercial or private law, and their modernization.

(b) The international economic law as developed by *Boguslawski* is in a very unambiguous formulation a scientific discipline in its own right and a complex branch of the law. Although Boguslawski has not given the designation of a socialist international economic law, as has been done by Seiffert, the subject-matter comprised by it is in fact restricted to the relations of the CMEA countries. Boguslawski's concept is built up on the following theoretical argumentation. The essence of the new concept is implied in the peculiarities of the legal relations manifesting themselves in the new type economic cooperation between the socialist countries. In these peculiarities multiplicity is one of the decisive elements, i.e. the coordination of the economic plans, specialization and cooperation, scientific and technical cooperation, financial and currency relations, the different ways of enterprisal cooperation, the concrete economic (guiding and operative) cooperation of governmental agencies, joint investments, or in all these the particularly important role of the state. Another decisive element (strictly speaking following from the one before) is that in this multiplicity there is of necessity always present the organizing side of the state, its civil law aspects and that of the law of property. The international relations of the socialist countries of economic law are hence given by the intertwining totality of legal relations which comes into being between the states, state agencies, organizations and enterprises. Although the norms bringing under regulation these legal relations are derived from the realms of the various branches of law, in addition to close cooperation a qualitatively new category comes into being: the legal relations of international economic law, and following from these taxonomically the complex branch of international economic law, and scientifically the autonomous discipline of it whose subject-matter is exactly the exploration of this complex branch of law and, within the scope of, it, of the tendencies and laws valid in it. The discipline of international economic law so conceived would, in its general part, embrace the subject-matter, methods and subjects-at-law, whereas the special part would discuss the following questions: 1. interstate coordination of the economic plans; 2. specialization and cooperation; 3. cooperation in scientific research and in technology;

4. cooperation in transport and telecommunication; 5. foreign trade relations in the narrower sense of the term; 6. direct cooperation of governmental agencies in investments and joint institutions; 7. credit and financial relations; 8. industrial property; 9. employment of foreign labour; 10. increased responsibility of subjects at law taking part in international economic relations; regulation of legal disputes.

(c) Whereas according to Boguslawski there canbe no talk of an autonomous, i. e. not only complex, branch of law before in the process of economic integration legal material has come forth from the nature of the economic integration in an amount adequate for its establisment, *Seiffert* on his part would not agree to the autonomy of international economic law as a separate branch of law were acceptable only if conditioned by a more unfolded legal regulation of integration. As he states, any branch of law will have to record not only what exists, it is in being not only when all its elements stand ready. If this were what we profess than we should be arguing the creative function of socialist law. Socialist international economic law is (here the case is expressly chat of the *socialist* international economic law), therefore, with Seiffert an autonomous branch of lew and also a branch of science in being: it is a branch of law and a discipline giving expression to the socialist economic integration. The subjects at law of this branch of law are the states, subjects of the nature of public international law, above all the CMEA as such, international sectoral agencies, governmental agencies, and international and domestic economic organizations i. e. enterprises. The law-creating and lawapplying teleology of integrated co-efficacy of norms by nature traditionally different, bringing under regulation the co-operative relations of these subjects at law is what is specific and what lends a character. From the side of the sources of law here we have the case of a corpus of law jointly established by the CMEA countries, or jointly planned by them with the claim to uniform validity, a corpus of law living under the rule of direct regulation. Like Boguslawski Seiffert, too, points out that 'strictly speaking the novelty exists in the complex regulation of the planning and bartering relations .... in the intertwining of organizational and property relations.' As regards its concrete positive spectrum this socialist international economic law of the international division of labour and international cooperation brings under regulation relations in the process of economic integration unfolding themselves in che domain of exchange and turnover of goods and intellectual property, more explicitly within the scope of the following issues: 1. coordination and adjustment of the prognostications of economic policy, production plans, technical and technological cooperation; 2. specialization, cooperation, standardization; 3. coordination of foreign trade programmes; 4. coordination of investments and the formation of joint enterprises; 5. barter relations and their preconditions, hereincluded price calculation and inter-enterprisal commonod ty-money relations; 6. system of payment; 7. transport; 8. inter-state guiding agencies and their activities; 9. the statutes of different international agencies; 10. commercial and shipping conventions, etc.

Meanwhile a conception of international economic law of another 'cross-section' has made its appearance in the German Democratic Republic, which under the designation *Aussenwirtschaftsrecht* (Law od freign economy) not only presents a peculiar formal des ignation but at the same time is as for its content also of a different kind. International economic law according this concept essentially embraces the municipal system of norms of the German Democratic Republic of economic law nature governing foreign trade transactions (in the List of References: *Wirtschaftsrecht und Aussenwirtschaftsrecht)*. Thus in the German Democratic Republic more branches of law deal with the law of international economic relations, among others the socialist international economic law, the law of foreign trade and private international law.

In the borderland of the three worlds, the socialist, capitalist and that of the developing countries, or in their interrelations and relations developing amidst innumerous contradictions, mainly at the pressure of the developing countries and sponsored by a socialist world the New International Economic Order has made its appearance as summed up in a normative system; i. e. on the one part as the Declaration of the New International Economic Order as approved by the Extraordinary General Assembly of UNO, and on the other, the Charter on the Economic Rights and Obligations of the States as approved by the XXIXth (1974) General Assembly of UNO. These instruments and the efforts for creating a nes order in world economics are for many reasons events of decisive importance, also for the law. First, they indicate the fact of a change of eras in world economics and forecast the new elements of the future. Secondly, they give expression to the fact that the progressive development of world economic relations and processes are by far more than the reform of institutions of civil or commercial law. Here state and public law guidance have and will have a decisive role. Viewing things from the present heading we have to make it clear that so far jurisprudence has as for contents and taxonomically assiimilated little of the legal developments. All that Hungarian literature has offered is but the active response of the literature of political economy . What must be taken for granted, however, is that here we have the case of universal and normative legal instruments which sum up the legal order of world economy *in statu nascendi* in some sort of a new synthesis, and which will no doubt be more than any attempt at synthetization so far made.

3. General experiences resulting from the revolt as viewed by jurisprudence

Within the synopsis of general experiences and the almost spontaneously following conclusions f rst a *few experiential facts* will have to be given shape.

(a) The revolt of the facts has shaken to their foundation the earlier traditional systems of branches of law, or the traditional systems of views relating to them, and started a process of fermentation.

(b) As regards private international law the revolt of facts has been complete for the fate of this branch of law and discipline, a circumstance which has been followed by the objective coercion of a new arrangement.

(c) Therefore, it is the objectively pressing task of the discipline of this domain of law to lead the revolt of the facts manifesting thsemselves in quantitative and qualitative changes into a reasonable and constructive system.

(d) Not even the in point of principle pragmatist Common Law Legal thinking can deny, and the jurisprudence of the Continent, in particular of the socialist countries expressly professes, that a theoretical systematization is not only the traditional value and in general the essential element of jurisprudential cognition and teaching, but at the same time a significant element in practice intent to exercise an effect on reality and in the conscious moulding of practice.

(e) From the point of view of the theory of science the fermentation in jurisprudence or the appearance of the different interpretations and concepts on the one side are the natural and inevitable concomitant phenomena of the background social reality, and, on the other, two intertwining phases of the development of the given branch of science. The first phase is the one of which the appearance of the new phenomena is characteristic on the one part, and on the other, that science for the interpretation of the new phenomena and for their theoretical understanding builds up new concepts and strives for initial generalization. In the second phase of the construction of theory and system, in the meaning of the theory of science, the specification of the notions, their related to new factual development adequate formulation and built upon these the construction of a possibly coherent theory or system unfold themselves. It is an almost unarguable fact that jurisprudence is in the given domain in the depths of this second phase.

(f) On the other hand it is a fact and also reality that the theoretical responses and concepts substantially differ from one another and offer the picture of multifariousness: the facts are given different interpretations, and thus those interpreting them come to different concepts, the study of the causes of which would go beyond the scope of the present work.

Speaking of the *agreements and discrepancies* we are, in a general way, tempted to the statement that

(a) in this revolt of the facts classical private international law is the "losing" party. It was unable to receive this process into itself. As regards the role of private international law left over after this defeat, opinions are widely divergent.

The purest of all formulae is the one that leaves private international law what it is, namely what it always was: the in the presence of all significant criteria well clinching system of conflicts law. Even there is plenty of movement, namely in view of the substantive legal systems giving expression to the new conditions the institutions of conflict law and its principles themselves undergo a metamorphosis.

The second formula is the one which into private international law introduces all rules of substantive law which on the assumption of the foreign element have been born at home or internationally. This formula then goes on disintegrating: according to certain ideas it is a branch of law, according to others a coherent domain of the law, an only scientifically consolidated so-called doctrinal system. According to the yet further 'fission' conflicts law is the life-giving or system-creating element of this kind of a more general private international law, whereas others want to discover the principal trend in the substantive regulation and the body of substantive law.

There is yet another systematization which goes somewhat beyond the one *supra*, and introduces certain administrative-organizational elements into the private international law of a more general sense (e. g. foreign exchange law, a little of the international economic organizations), still quantitatively not an amount which would burst completely the envelope of private international law.

Strictly speaking the convex of this formula is the international economic law, community law, or international commercial law approach or the eradiation of the law of international economic relations which introduces into the complex systems conforming to these conceptions from the classical private international law what virtually appears as a legal element of the given phenomenon, and where it appears to be warranted.

(b) A relatively great, perhaps dominant part of the musical composition here presented which by the side of the *leitmotif* of complexity strives for new forms, new systems, new designations. The *leitmotif*, however, is subject to considerable variations.

There is the international commercial law idea which accepting the charge of theoretical vagueness embraces the totality of international economic relations. Here pragmatically complexity is everything, therefore theoretically it will not lend itself for differentiation.

At other places by the name of international economic law complexity is at least a complex branch of law;

at yet another place it is by the same name the decisive structural element of an autonomous branch of law;

whereas, owing to the weight of the organizational dynamics of the integration, it is there the domain of a specific mixed specialized law, by the name of Community law the mutation of classical Western economic law on Community level.

There are certain concepts of international economic law which relate only to the conditions of integration. Others are of the width of a type of law, however, without West-East relevances. Again other complexities will appear with the claim to universality.

As has been seen the notion of the law of international economic relations as formulated by Wiemann would though embrace all that related to international economic relations, still it has failed to break through its chrysalis, so that we are at a loss to tell what would have become of it.

(c) This transports us already to the other, perhaps also decisive, yet second-rate, fairly generally followed, yet not always named, motive, name-

ly to the order of magnitude of the corpus of law concerned and to its significance among the legal norms of the given country. If at present for a given country or legal system, as the case may be, the modern phenomena of international economic relations are as for quantity and weight of substantial amount, then practice (the different institutions of economic and legal policy) and jurisprudence ought to embrace them. Practice and jurisprudence cannot, however, live up reasonably to this demand in some sort of an undifferentiated totality. Therefore within the grand total the differentiation will come about in addition to which it will become functionally expedient and necessary with a fairly great force to embrace, cultivate, systematize part domains, something which by itself also carries the force of a discipline or systemcreating factor. Yet whereas for certain students this factor is a mere reason for the division of labour, for others it is the delimiting criterion of a scientific discipline, and for yet others an auxiliary (seldom decisive) criterion of the branch of law.

(d) In connexion with the sphere of agreements and discrepancies also the experience will have to be remembered that several divergent concepts (systems, domains, branches) are known by a uniform designation, and many on the grounds of the inperfections of the designation attack the carrier of the name. Still carrying on a debate in this manner, or argue the validity of something, is perhaps meaningless. The rise of something to the level of a notion is though an essential phase of scientific cognition and an essential element of the use of scientific categories. Still this is a complex concept and in particular at the definition of complex concepts we find outselves in trouble with the wisdom of the words. Correctly massive definitions and designations cannot be conceived unless in their technical meaning and are to be understood in conjunction with the notional contents as set forth in the analysis using them. It would be ungrounded to demand that the linguistic designation of a notion (branch of law, discipline of jourisprudence, domain of law) should include everything and should carry the exact meaning of the words actually used. If this were done, not only e. g. the designations of private international law or economic law would become arguable (the one becuase, as is said, it is neither international nor only private, the other because economy embraces all and cannot, therefore, be a delimiting criterion), but even designations as civil law, which is by far more than 'civil' only. This law is namely as much the law of state enterprises and other economic organizations as of citizens.

4. The facts in Hungary and the response of Hungarian jurisprudence to them

The revolt of facts is of moment also in Hungary, moreover even more momentous than in general. In view of the extremely strong foreign trade orientedness of Hungary, this statement does not call for further attestation. E. g. it is straightforward by itself that the body of norms giving expression to the participation of Hungary in the world economy and to the integrated

cooperation of the CMEA countries, is a huge totality of norms; this in its subject-matter and content coherent complex material of law as for its form carrying the criteria of several branches of law embraces all norms which bring under regulation Hungarian foreign commerce partly with provisions of municipal origin, partly with bilateral and multilateral conventions and other norms, partly with joint normatives appearing in the CMEA integration. It stands to reason that here we have to do with a bulk of provisions of law quantitatively amounting to several volumes.

Hungarian jurisprudence has not as yet an unambiguous response of systematization to this complex and centripetal totality of norms and provisions. For a time though jurisprudence could keep abreast of developments. With varying intensity and in a varying measure it filled up private international law overwhelmingly with civil law norms and to a lesser degree with such of a different nature, and has given it the name of private international law of a doctrinal system and in the wider meaning of the term. Jurisprudence tacitly or expressly neglected designations like international economic law or a system of other name, and even protested against them. What still happened was that a small portion of publications, textbooks, etc. appeared under the flag of the various branches of law (e. g. the decision making mechanism of CMEA, relations of international fiscal law, foreign trade management). These, however, did not only fail to strive for some sort of a taxonomic completeness (a completeness namely of the given relations of foreign commerce which could be grasped from the side of the branch of law in question), still viewed even from the side of quantity and intensity are far away from what aus needed in this domain. The whole 'matter' thus remained the care of civil law or private international law in the wider sense, where in a casual manner the cultivators of other branches of law or science lent a helping hand with a fairly spontaneous and far from satisfactory degree of intensity. In such a form then monographic or other summarizing-reviewing writings made their appearance and served the practical needs which had emerged, so e. g. on foreign trade monopoly *(Mádl)*, on international enterprisal associations *(Sárközy—Fábián)*, on certain legal problems of integration *(Kiss, Mádl)*, on socialist international enterprises *(Kiss)*, on the decision-making mechanism of CMEA and the Common Market *(Valki, Ustor)*, on the General Conditions of Delivery of Goods *(Szász)*, on the law of international financial transactions *(Meznerics)*, on the body of knowledge of international commercial law *(Bánrévy)*.

These are by themselves remarkable achievements, one is tempted to state that the revolt of facts has in these cleared the path for itself in Hungarian jurisprudence and economics sciences. Still we can hardly approve of the situation where in Hungarian jurisprudence and legal thinking this huge totality of norms in question find themselves in the matter of theoretical system-creation and corresponding cultivation, of a situation namely which owing partly to the unsettledness of the frontiers, partly for reasons of capacity, still mostly because the given body of law partly for quantitative, partly for theoretical-taxonomical reasons has in its complexity no

room in the traditional branches and disciplines, cannot be comprised by a single traditional branch of law with the required complexity.

The today sufficiently universal conviction of Hungarian jurisprudence that it has to make a step further from this situation as regards teaching, scientific research work as well as a number of practical relations, is generally known. This is the conclusion to which the Committee of Administrative and Legal Sciences of the Hungarian Academy of Sciences has come in the course of a debate dealing with the problem.

5. The search for a new response and the earlier systems

On the search for the notional framework of a system-building of scientific standards we have to set out from the understanding that scientific cognition has to lead us to a reflection where the reflecting medium syntheticizes and reflects the beams of light received from the following two decisive elements of social reality. The one element is put together of the economic and legal facts whose revolt forms the subject-matter of the present discussion. We have before our selves not only the mass of these facts, but also as another item the fact that in the given economic an legal reality there is a strong cohesion: namely the symbiosis of the administrative-organizational element transmitting state influence and guidance and of the commodity relations carrying enterprisal elements, a symbiosis which partly is histroical exigency, partly the enlivening pledge of creative advance. This is the symbiosis where the tension of the dialectical controversy, struggle and unity of the two elements has to be developed also with the means of juripsprudence in the direction of an optimum. And it is here where the second decisive element steps into the scene, the element namely which in the proper reflection has to be present. This second element is the relatively autonomous character of the law, i. e. the law, though expression of the economic-social relation, so e. g. somehow also of the structure of economy, has to be even by itself a coherent system of expression in a way, however, that it reasonably serves its principal function proper, viz. that it transfers human consciousness into correct volitional activity or active repercussion. If we tried to transmit jurisprudence as the general human consciousness relating to the law to virtual activity irrespective of the above exigency, then we should slash the law to the varying multitude of branches according to the subject of regulation (economic, social, political, administrative, etc.). So law would cease to be an in and by itself uniform reflexive system and would become a mirror broken to pieces at the impact of outer impulses, where nobody could find his bearings anymore, each of the divergent refracting angles pointing elsewhere. Jurisprudence, if it wants to reflect correctly and help practice, can but give attention to the relative independence of the law and its intrinsic tendencies and laws.

By the side of the exigency of this reflexiveexpressive process private international la win its differently expanded forms is not capable of consolidating the totality of the revolting facts into a system. In the first place

it does not fail here because the concepts differently expanding private international law are not uniform and do not even go as far, but because the reason why these concepts do not go as far. It stands to reason namely that even the most extensively interpreted private international law will fail when it comes to grasp the norms of integration of CMEA or the Common Market. The authors of private international law are hard put to it even when it comes to cope with the corpus of substantive civil law of international turnover, although they are making efforts in this sense at least in principle on the plea of this being an autonomous branch of law or a doctrinal domain of law, or if only by having recourse to the use of a congeries of appendices. Incidentally they lay stress not only on a single element, or let us say method, of regulation, but rather on its motive, notably that regulation has been born on the assumption of a foreign element. Meanwhile they appear to ignore, or are at least unaware of, that in this way they tolerate in the method of regulation as one of the generally accepted criterion of systematization, extremely heterogeneous forms (direct regulation, conflict rules, civil law and administrative elements although exactly the defenders of these concepts are the staunchest oppenents of all non-orthodox (e. g. economic law) solutions, and at the same time the fervent advocates of the traditional methods. Since the main drift of the corpus of law in question neither has a place in this private international law nor would even those concepts squeeze it into it which by the tacit or express resoluition of the criteria of systematization nevertheless enumerate a lot of other things; since further this leads to a disorder within the system even where there would be order anyhow, it appears to be the best and theoretically the most consistent way out to leave private international law what it is, and recognize the function for which it has been born, i. e. to allow it to remain conflicts aw and so one of the autonomous branches of the legal system whose function is, in the event of the collision of legal systems, in want of a uniform regulation of substantive law to lead to the establishment of the legal system to be applied. The social relations embraced by private international law is the scope of international personal and property relations in whose substantive law in general the commodity form or juxtaposition prevails, on which by the name of private international lawt wo further segregating elements build up. First, the method of indirect regulation, and, secondly, that the branch of law so come into being has, thanks the normative and theoretical theses of, its general and special parts, a closed hierarchical system. In addition to the earlier views and considerations we would lay special stress on this system of hierarchy. The general rules in the normative sense comprise the totality of the special rules. As general rules these general rules cannot be replaced by others, and the special rules operate together with them. It would be scientifically difficult to contest the character of an autonomous branch of law of a totality of legal rules so unambiguously having a prehistory, social and legal purpose, further such a closed method of regulation.

It is an altogether different matter that private international law so conceived has so remarkably been thrust to the background in particular

in the field of economic relations. As general ultimate solution private international law is, however, even there of significance. Also, it is an altogether different matter that private international law, simultaneously with the revolt of facts, above all with the change of contents of the institutions of substantive law, also undergoes remarkable changes, changes which in Hungary ought to be laid down in a codification of private international law.

All th's does not, however, alter the fact that private international law as understood in the above (and original) meaning in this concept in a relatively optimal manner is in agreement with the conditions of reflection: relying on the undrling personal and trading conditions it expresses the one side of social reality with the peculiarities of the regulation resorted to, and by this offers, within its own sphere, a system of means of clear-cut contents for social activity (teaching, science and practice).

Now when private international law is seceding in this way from the domination of the revolt of facts in this manner, will the totality of rules which for Hungary too is a decisive part of the law of international economic relations remain a branch, or branches of law ?

The reply will, following from the exigencies of a correct reflection as outlined above, sound that this complex entity of law does not put on the form of an autonomous branch of law. In the assumed correctness of this statement the circumstance that as has been seen the various authors give very different designations (such as international commercial law, international economic law, socialist international economic law, etc.) to the legal material in quetion, while turning it into a comlex or autonomous branch of law, is of secondary importance only.

The principal cause of negation lies in the circumstance that the system-building theory has to be correct viewed from both the side of the legal peculiarities of the legal regulation applied as well as the side of the relative autonomy of the given economic phenomenon (the body of law ruled by the centripetal forces of the international economic relations).

It is true that in the mixed corpus of law in question coherence is brought about by the essential elements, viz. the coherent knowledge and means needed for the 'control' of the given branch of economy; the conditionedness of the economic movements of enterprisal level on international and domestic organizational and administrative dynamics, something that has become a characteristic new trait of international operative economic relations; the from this starting point organically resultant phenomenon that the means of the law by its various branches have to be operated in complex interaction; that a number of comprehensive normatives are by themselves also complex and have effects on such forthcoming later only (e. g. the Complex Programme of the CMEA, to mention single only), etc. It is certain that by all this a new quality comes into being . The question remains to be asked, whether by this a new quality comes into being in the meaning of a branch of law ? And it is at this place where for reasons of correct cognition, practical clear concepts and the optimal legal 'control system' of the development of international economic relations, the answer

has to be a decided No. This is a matter not only of designation. Wat will become, for the time being only at the level of names and formal notions, the designation of the traditional branches of law, if groups of phenomena of a different character have also been invested with the attributes of the branches of law ?

If the element classification is given to the compounds formed of elements, then we either, unscientifically, cuddle things up, or have to give other names to the elements. There is no other way out of the quandary than to consider a branch of law what in reality it is. And what in fact is a branch of law that has already been made clear in connexion with private international law. Therefore the statement that the corpus of law is for the purpose of the method of regulation, the applicability of a possible general part in the normative meaning of the term, possibly for the purpose of uniform codification not homogeneous and even by this title inappopriate to put on the guise of the branch of law is without further demonstration straightforward.

Furthermore, however complex is a smaller or larger set of law of international or municipal origin, the elements of the particular branches of law will not eventually lose their individual properties, or their principal role to contribute with their individual nature of being an element to the birth of the given compound, moreover the agent causing the complexity does not even intend that they lose it, for from this moment onwards it would not even know with what means it operated and also because such a loss of properties would become the source of incalculable confusion. As for its legal nature such a norm would, by the content of its dogmatic structure, if dissolved into its last rational elements, be either of civil law nature because with the appropriate sanctions it presupposes the juxtaposition of the parties, or of the nature of administrative law, because it presupposes sub- and superordination with the appropriate sanctions, or of the nature of criminal law with the sanction of criminal law, or of the nature of public international law with the definite of subject sphere, system of sanctions and procedural order of public international law, etc. The case is not one as if even in a single paragraph all these could not be present in conjunction. E. g. for the validity of a contract incorporating an international element in addition to the civil law criteria of validity, loaded by other, non-civil law sanctions, foreign trade, administrative or foreign exchange permits will also be needed. The joint presence of these elements in a definite paragraph does not deprive the one element of its civil law nature, or another of its administrative character. There also remains the fact that in the background of the one or the other paragraph each a large totality of rules of substantive or procedural law, or of private international law will go on living together with their general and special norms, and that occasionally recourse may have to be had to them. The same holds also for a large complex of norms where (in the form of a statute, convention, etc.) in a decisive number civil law provisions have been incorporated, however, with accompanying provisions of procedural law, public international law, labour law, administrative law or criminal law. E. g. in the Model Statutes of Inter-

national Economic Organizations of the CMEA all these are present. All these heterogeneous elements are there, are called to exercise a joint effect, still by preserving the identity of their nature and the maintenance of the efficiency of this identity. With a very definite knowledge and distinction of the peculiarities of the elements of civil law and public international law and a corresponding complexity are, e. g., those CMEA conditions being developed which deal with the material liability for the economic undertakings of the states.

We cannot close this trend of thought but with the following conclusion: the corpus of law in question will not be turned into a new branch of law by its complexity and the character of a symbiotic medley. It is something else which may be applied to the new quality. This something else is the new response in question for which we have been searching (the justification of which will have to attain the possible complete accomplishment, hopefully, at the end of this study): the corpus of provisions of law governing Hungaryts international economic relations is *for reason of he weight of the totali y of rules, the peculiarities of regulation and its function a coherent, complex field of law, which scientifically can be considered as an autonomous discipline, and most rationally designated as the 'law of international economic relations'*.

II. THE NEW RESPONSE: THE 'LAW OF INTERNATIONAL ECONOMIC RELATIONS' – ITS NOTIONAL SCOPE AND PRINCIPAL ELEMENTS OF THE CONTENT OF ITS SUBJECT MATTER

1. The notional scope of the 'law of international economic relations'

1. The notional scope of the 'law of international economic relations.' 2. Principal content elements of the subject-matter of the 'law on international economic relations.'

The descriptive-explanatory definition *supra* raises the law of international economic relations now to the level of notional definition. This at the same time wants to say that the law of international economic relations has to be understood by the meaning of its definite notional signs. These are the following:

(a) The reasons of the normative side

The first element relates to the normative side of the notion, the character of the field of law, mainly to the circumstance that for the weight of the totality of norms, the peculiarities and function of regulation the corpus of law in question is a coherent, complex field of the law (why it is not branch of law has been made clear above). The reasons:

(a) The quantity and prominent significance of the totality of provisions of law as given are under circumstances as they exist here in certainty beyond argument.

(b) In like way it is hard to contest that this totality of provisions of law is with its claim to complexity owing to the circumstances referred to to a considerable extent without a master or home among the various branches of law.

(c) One of the consolidating elements is the fact that overwhelmingly compescial and economic conditions provide the subject-matter of regulation.

(d) It is to some extent a peculiarity of regulation that it incorporates yet another aspect of the commescal and economic relations in question, namely that here we have the case of international commescial and economic relations and that therefore regulation is born and developing in the assumption of some sort of a foreign element.

(e) One of the decisive reasons is, however, the peculiarity of the legal regulation that actually the regulation of international economic processes characteristically takes place through the *ensemble* of norms for their nature differing by branches of law. This follows from the actually qualifying peculiarity of the international economic relations that the civil law forms or those of commercial law channelling the establishment of economic relations live and operate conditioned by the forms by way of which the state or interstate institutions of economic policy carry into effect their international economy organizing (guiding, influencing and operating) functions. This is valid also for concrete transaction. E. g. purchase according to the General Conditions of Delivery of Goods, or a contract of cooperation between East and West passes through the complex of regulation in several branches of the law. The contract is part of municipal mechanism of licensing (qultimately of planning), and taking on a civil law form enters the phase of international substantive civil or commercial law. In this process it meets systems of quota, customs and other interstate conditions, within the payment phase it comes into contact with currentg regulations, rules of international financial law and possbily with conflicts law. Still this is the case with any larger interstate venture. E. g. the construction of the Adriatic Oil Pipeline or the Orenburg Gas Pipelines takes place within the coherent complex system of interstate and interenterprisal agreements, and municipal measures of economic administration. Beyond the general undertaking of obligations and guaranteeing the corresponding portion of their national territory the states undertake the creation of the appropriate investing enterprises and the operation of the civil law mechanism required for their functioning.

(f) It is at this place where another of the decisive reasons joins in. Like in a symphonic orchestra the totality of each a type of instruments here, too, the parts will difter not only epistemologically, so to say in their static nature, but also for their function, effects, considerations of operation, practicable principles of operation, i. e. from the dynamic aspect. The parts may differ from one another, and yet constitute a solid, coherent unity. This unity embraces all principles and methods which relate to the nature of the particular homogeneous elements, the mutual rational and practical interrelation of the various homogeneous elements, the relation

of the multifarious linking up of the various elements to the unity as a whole, the direct and in their principal interrelations general objectives of the unity as a whole. For all these both the creative artist and the conductor, that is the making and the applying of the law will have to embrace the knowledge of all these. This cannot be done unless in the reasonable order of them. This order is the complex filed of the law of international economic relations, which does not consist in the legitimate system of a code, but finds expression in the unity and differentiation of a theoretically verified system. In this unity, for the purpose of the coherent development of international economic relations in a complex connexion the following appear at the time

– the general tendencies and efforts of economic policy resulting from the development of economic and social relations and relating to the given domain;

– the tendencies and efforts resulting from the international political economic and scientific-technical system of assumptions of the country;

– the prevalence of the general principles formulated in the law of international relations and of their dynamics;

– the subjects having a decisive role in shaping the international economic relations and their function: above all the state and the agencies of integration in the socialist economic system, other international agencies formulating or also formulating the economic policy, and finally, the subjects of the *sui generis* enterprisal level;

– the complexes of municipal provisions of law or such of international law resulting from the various domains differing by branches of law, or consolidating there.

(g) The unity creating circumstance conceivable also as segregated reason, namely that in the whole of the given totality of rules numerous normatively formulated principles will also make their appearance, principles notably which embrace the whole corpus of law (such as e. g. the principles of equality of rights and of non-interference, the principle of the mutual guarantee of the benefits, the principle of the sovereign disposal of national assets, the most-favoured-nation clause, the foreign trade monopoly, etc.) is implied already in what has been set forth above. These principles merely reinforce the theses that the law of international economic relations is a relatively segregated coherent complex domain of the law.

(b) Boundaries, borderline cooperation, intesual differentation

Sith its meaning as defined earlier, its infolding and protruding borders, with its uncertain borderland of varying dpeth, the term field of law will be of help to us whenever we are in search for the reply to yet another actual question, namely where does the boundary of this complex domain of law lie? The wisdom of the term already signals the reply: there is an inner, domestic part of the domain, the basic material of the domain of law, and there are borderline regions where the domain of law in question

already becomes intertwined with adjacent domains, here occupying more or less from the neighbour, or vice vers there lending more, there less, to the neighbour.

In a more concrete form: which facts find a place in this domain owing to the revolt of facts, has in its outlines been clarified before. Here the question to be answered is: whether all of the corpus of law concerned belongs to this field of law, and whether this corpus belongs to the 'jurisdiction' or 'competence' of this domain only. The answer is a decided No.

The theoretical boundaries of affiliation or of the basic material are as has been made clear: the commercial-civil law channels giving expression to the process of internationalization of production, development, transport and trade, together with the controlling-guiding-forming lock and control systems with the aid of which the state and interstate agencies operate these channels. Hence to this domain strictly speaking only the civil or commercial law level and the non-civil law structures built on the former or in direct contact with them, are affiliated, or more explicitly, the norms of administrative, international, etc. law which accommodate the civil law mechanism in the system of conditions of the catalyzers transmitting state guidance. There is, however, also a third level in the stratification of norms relating to international economic relations (on the assumption that the first level is the lower one, carrying into effect virtual economic relations, the second that of the controlling and guiding means of the state and other public law agencies), namely that of the organizational and procedural, and partly administrative norms within the framework of which the state and other public law agencies shape their measures of influence and guidance, i. e. the corpus of norms of the second level. This is already a category which for its affiliation is a twofaced one. First, dependent on the given concrete assumption, also the law of international economic relations has to extend to this category, in a loose or decided manner, secondly, however, this category is part and object of the generality of the other branch of law concerned.

This is evident even in this theoretical generalization, yet let us quote a few examples from the field of the facts of the revolt. For the validity of an international sales contract the licence of the foreign trade authority may be required specially for the import or the export as, the case may be. Here also measures of the customs authorities may have a word to say. Now the administrative acts in question are already parts of the order of another generality, in the present instance of that of administrative law, although the administrative acts receive their sense and existence from the sense and content of the underlying transaction. Still the customs system or the administrative agencies of foreign trade, i. e. where these acts are born, are as this third level in general already part of another field. Now in a wider complexity, our field is concerned here in so far as is regularly relevant for its operation (e. g. in so far as which licence is issued by which authority, or whether within each an authority there is a hierarchical level, and if as which, and a procedure aligned to it). This carries to a more general example: to the organizational structure of the foreign trade mo-

nopoly. In the entire system of the governmental agencies foreign trade administration, too, is a special administrative problem. Viewed from the domain of the law of international economic relations beyond the foreign trade enterprises, or enterprises invested with the right to transact foreign trade deals, or mixed enterprises operating with foreign participation, this special problem amounts to the specific role of the state, e. g. the formation and the sphere of operation of the enterprises, the guidance of their activities with plans and other means, and in all that the level of the particular governmental agencies, their jurisdiction and obligations. Thus e. g. the foreign trade act is from above object and source of the administrative law, from below (or rather from the inside) it is the object and source also of the law of international economic relations. In the body of norms of the CMEA accumulated so far the lower, civil law level, has not confronted us with problems. The second level, i. e. all kinds of administrative and procedural norms (recommendations, the foundation of joint agencies, establishment of cooperations, adjustment of plans, formulation of development programmes) in like way does not constitute a problem. The third level, however, viz. the operating mechanism of the CMEA as a whole means complexes organizational, administrative and procedural norms of a quantity and weight which on the one part reinforce this third level to greater strength, and on the other, this level becomes a matter of special wight also of public international law. Since, however, the third level is as a whole the indispensable system of conditions of the operation of the economic processes materializing at the medium and lower level, or the other way round: since the third level has a meaning only in respect of the medium and lower levels, the fundamental elements of the upper level should be understood as included in the law of international economic relations.

The law of international economic relations on this understanding should not, however, be conceived so as if, by the side of a most consistently established unity, there were no natural moreover desirable, internal differentiation, a practicaly more intense consolidation and cultivation of certain part domains of this law, e. g. the law of international sales, or in general the law of foreign trade contracts, international patent law, the law of international transports, the law of international settlements, or what with the growth of the relevant corpus of norms and owing to its extreme significance insists on an internal autonomy, namely the law of economic integration. This differentiation is in general not unknown in the law: both in the fields of legislation and practice as well as the discipline. This is as natural as within civil law the differentiation into the law, of contracts, the law of persons, company law, patent law, etc.

(c) The discipline and its reasons

After what has been said of the normative side of the law of international economic relations and the nature of its domain the presentation of the nature of the discipline and its character will givecause for fewer difficulties.

We may dispense with demonstrating that the disciplines of jurisprudence are not restricted to the traditional branches of law; that the law of international economic relations abounds in normative objects to what it applies, since ultimately all theories and disciplines of jurisprudence have to refer to positive law (its development, nature, etc.); that the law of international economic relations is a relatively segregable coherent totality of provisions of law and so normatively it is capable of following the discipline built on it on a long path; that this domain of the law has even normatively formulated general principles which at the same time reflect the general tendencies and laws to be explored by the discipline. But the discipline has to go further: First, it has to explore the scoial and economic background of this field in a wider and profound sense, advance its development with the aid of the legal means applied and applicable and reveal the laws manifesting themselves in the interaction of these means; secondly, to study the forms of regulation and systematization born in the laws of notion of the historical and logical elements (cca. about things this study deals with); thirdly, for practical purposes ans also scientifically a general survey has to be offered in a rational system of (1) the subjects of this domain of law, their legal statics and potential capabilities; (2) the dynamic system of means of their operation and cooperation; further (3) the method of the settlement of any disputes which may emerge. This is largely the general part of the discipline, to be followed by the detailed ans systematic study of the particular institutions of law.

As regards the potential and natural differentiation of the discipline, this is in the present connexion as natural and reasonable as it was from the normative aspects of the law of international economic relations.

2. Principal content elements of the subject-matter of the 'law of international economic relations'

Under the following headings, so to say tentatively for the demonstration what has been brought forward theoretically, an attempt will be made at outlining the principal elements of the system. The complete expoisition of the subject will be the task of further efforts.

The *sources* are the most significant elements of the content irrespective of whether they are of a binding force, or if so, to what extent, or whether they obtain this binding force only through a contract. The brief survey of the sources classified by their origin indicates that this in its content coherent complex corpus of law according to its form bearing the criteria of several branches of law, is in reality a huge totality of provisions of law.

(a) Part of the norms of internal origin are the rules giving expression. and developing the foreign trade monopoly direclty (the organization of foreign trade, administrative competencies of superior authorities, foreign trade administration, planning and guiding of foreign frade, foreign exchange law, right to foreign trade transactions, import and export licences, customs and other means for the control of foreign trade transactions). Ot-

her internal norms are: the norms of inland economic activities of aliens (investments, mixed enterprises, representations) and the other way round; the norms of international cooperation, and specialization; the substantive rules of the law of obligations the municipal conflict rules of foreign trade relations; the municipal rules or arbitration.

(b) Owing to the membership or participation of Hungary on the universal or multilateral legal structures of international origin the following are effective in, or relevant for, Hungary: (aa) the following sources of law of major importance apply to the political or concrete economic attitude of the states: the sections of the Charter of the United Nations Organization on the economic rights and obligations of the states; the sections on economic policy of the Final Acts of the Helsinki European Security Conference; the General Agreement on Tariffs and Trade (GATT); the resolutions of the UN Conference on Trade and Development (UNCTAD); agreements bringing under reulation international investments such as the Adria oil pipeline construction, or the provisions of inter-state cartels such as the international tin convention: (bb) Regulations overwhelmingly issued to economic units: the various conventions on transport and affreightment; the liability for atomic damages; the convention on uniform rules of international sales (ULIS); the Régles and Reglément summing up the uniform substantive provisions governing letters of credit and collections published in the 'private codification' of the International Chamber of Commerce, to which the competent Hungarian banks have also subscribed; INCO-TERMS, in like way a 'private codification' of the International Chamber of Commerce and certain uniform substantive provisions of international commercial agreements, such as those governing the site of performance, costs and charges, etc.; the international convention on cheques and bills; the general conditions of the European Economic Commission and the vasios rules of arbitration etc. *(c)* Of the international rules of bilateral origin *(aa)* overwhelmingly binding the states the more important ones are: commercial and consular agreements, conventions and minutes on the bilatosal trade turnover, conventions on judicial assistance, agreements on joint investments or the agreements on the creation of economic organizations. *(bb)* The parts and sections of the commercial and consular agreements and of the agreements on judicial assistance relating to the legal status of economic units.

(d) The great unity of rules giving expression to the economic integration of the CMEA countries, bringing under regulation and developing this integration as for their subject-matter appear on at least three mutually overlapping and conditioning planes: *(aa)* The one plane is that of organization and decision-making in general. Historically and logically the norms on this plane are the premisses of the corpus of rules carried by the following two planes. *(bb)* The second plane is that of the joint institutions and other rights or obligations of the member states taking part in the integration (joint inter-state economic organizations, joint banks, clearing system, coordination of the economic plan, prognostications, agreements on specialization, investments, agreements of the agencies of economic management

state liability for economic undertakings, arbitration, etc.). *(cc)* The third plane is that of the norms bringing under regulation the legal relations of the enterprises the general conditions of sales, installation, technical services, agreements on affreightment, the norms of joint economic organizations, rules governing the transfer of intellectual property, supplementary conflicht rules, etc.).

Like in other branches of law the general *principles*, the principles of the law of internaional economic relations discharge the two principal functions of principles, viz. first, they provide the general background of the given domain of law, secondly, they, provide the general framework of the content unfolded in the part provisions, and as such are the source of their interpretative-developmental practical application. These principles do not live exclusively in general political theses, but put on the form of the in statutory formulation binding norms. This review complied with no claim to completeness makes it clear that here we have an in weight and number legally concretized significant phenomanon.

(a) High ranking provisions of law formulate the principles of municipal origin. On this understanding the most general source of law is the Hungarian Foreign Trade Act of 1974. This act lends a statutory form and force to principles such as sovereingty, the respect for international commitments, the equality of rights, the guarantee of mutual benefits and refrain from discrimination in the international economic relations, participation in the international division of labour and in the socilist economic integration, the state monopoly and state planning of foreign trade. The Foreign Exchange Code of 1974 declares and regulates in detall the state monopoly of foreign exchange policy.

(b) Certain general international conventions of special significance and effective in Hungary particularly abound in the formation of the principles of international economic relations to theses of law. The significance of these theses is patent even when part of them moves within the generalities of the formulation of a programme. The UN Charter on the economic rights and obligations of the states (1974) is a wealthy storehouse of such theses. They range from the principles of state sovereignty, territorial integrity and equality of the states to such as the mutual benefits, the *bona fide* performance of international obligations, the abstention from endevours for economic hegemony, the sovereign rights of the states in respect of national assets and resources, the right of the regulation of foreign trade relations and foreign investments in agreement with the interests of the state, the sovereign right of the states of nationalization and the recognition of the domestic order of compensation, the right and obligation of participation in the international division of labour, the prohibition of discrimination, the promotion of the international turnover in goods and so also that of world trade by respecting the specific interests of the developing countries, the promotion of general and intensive regional economic cooperation, etc.

A large number of these principles has been presented in a 'European' framework of the Final Act of the European Conference of Security and

Cooperation of 1975. The conference itself has accorded a prominent role to economic, scientific and technological cooperation. Among the theses of the conference special mention may be made of the one laying stress on the most-favoured-nations clause (i. e. the clause guaranteeing uniform commercial terms to all foreign partners or partner enterprises of the particular country; under the clause no preferenctial treatment can be granted to the enterprises of the one country to the prejudice of the other, the benefit granted to the one must accordingly be granted also to the other country), by stimulating the recourse to the many-sided aids of the international movement of goods the protection of the home markets against possible market-destructing merchandise dumping or similar contingencies, the support of the large-scale international activities of small- and medium-size enterprises, the development of legislation advancing the growth of international trade and the extension of the relevant information service, the reinforcement of the new forms of inter-enterprisal cooperation going beyond the traditional trade, the use of expeditious forms of arbitration for the determination of disputes, etc.

The GATT is yet a further general convention of which Hungary is a member since 1973, and which for the purpose of the legal order of foreign trade relations incorpoerates significant concrete principles. Among these principles there are three which in a concrete manner affect Hungary's foreign trade, its legal regulation (modified in agreement with the convention at the time of its being joined) to an extent that the instrument of accession itself is but the detailed exposition of the manner how the principles of GATT will be enforced. The GATT principles are (the classical GATT rights and obligations): the most-favoured nations-clause, the reduction of protectionist measures, abstention from dumping activities and the recognition of the right to take defensive action against them.

(c) We have yet to speak of the principles of the Complex Programme (1971), an instrument formulating the principles of economic integration of the socialist world. In addition to the principles of a more or less general character, such as in the development of the many-sided cooperation to an economic integration 'in agreement with the principles of socialist internationalism the respect for state sovereignty, independence and the national interests, the non-interference in the domestic affairs of the countries, the complete equality of rights, (the principle) of mutual advantages and mutual comradely assistance' (Complex Programme, chap. 1(2) we may specially mention the principles operating towards a working system of regulation, such as the principles of voluntariness and interestedness in the particular concrete forms of cooperation, the openness towards the outer world, the gradual approximation of the standards of development of the member states, by the side of the plan decumentation and prognistication the exploitation of the merchandise and money relations within a wide sphere, by the side of the development of the forms of interstate cooperation the development of the inter-enterprisal level (joint enterprises, economic and coordinating agencies, specialization and cooperation), the improvement of the legal foundations of cooperation, among others the normative re-

inforcement of the principles of economic liability of the states for the performance of their economic undertakings.

The next great unity of the principal elements embraced by the principles and the sources of law is provided by the *subjec s* of the international economic relations, or more explicitly the state and inter-state agencies guiding and realizing the international economic relations, and by the enterprises and juristic persons operating in this field.

(a) The organization and rights of the state and inter-state agencies are neither in general nor *sui generis* parts of the law of international economic relations whose main drift consists of the flow of goods, technologies, services, cooperations of different levels, investments, payments and labour between the enterprises translated into reality in the controls of a civli law nature. Yet first the state level too may appear on these waters, and, secondly, and this is decisive, the controlling system of public law nature is the condition and organic element of the transactions of the civil law level, and of the shape they take. Therefore the reasonable reflexion of reality and the complex approac insist that the law of international economic relations from this specific outlook embraces the elements of the public law level projected so the plane of the law of international economic relations and of relevance only there.

(aa) Here obviously above all the domestic agencies of state guidance of foreign trade and their rights are of primary importance. In a simplified form the statement may be made that this implies all that the state monopoly of foreign trade purports. This monopoly is embodied decisively by the rights of the Ministry of Foreign Trade as transmitted to it from the legislature through the Council of Ministers and the other departments and other all-national authorities, rights such as, in the wider sense of the term, the planning of foreign trade as implied in the totality of national planning; the definition of the direct and indirect systems of assets required for the execution of the plans; the development and realization of the general and concrete measures for the participation in international division of labour, in particular in the CMEA cooperation; participation in the operations of the international agencies serving this purpose and in international legislation; the establishment of the regulations governing the organization system of foreign trade, its operation, guidance and control; the establishment and enforcement of foreign trade policy; the establishment of a system of granting foreign trading rights and foreign trade licences; regulation of economic activities pursued by foreigners in Hungary; establishment of a foreign exchange policy and the regulation of participation in international financial cooperation.

(bb) After this survey a few words will have to be said of the general international organizations and institutions with effects on Hungarian foreign trade relations, hereincluded also on developments at the civil law level. As is commonly known the normative effects of these organizations and institutions are due to the circumstance that Hungary has a part in them either as member or in any other capacity. Organizations of this kind

are the United Nationa Organizations which in its Cheater on the economic rights and obligations of the states defines a number of normatives relating to foreign trade. There is further the Economic Commission, for Europe, the United Nations Conference on Trade and Development (UNCTAD), the UN Committe of International Crade law (UNCITRAL), the International Institute for the Unification of Private Saw (UNIDROIT), the International Law Association (ILA), the International Chamber of Commerce (ICC), etc. The Economic Commission for Europe and UNIDROIT, further the International Chamber of Commerce, have complied a number of instruments, draft agreements and conventions, further several general conditions for international contracts, which owing to their wide circulation have a considerable influence on the contract-making practice also of the Hungarian foreign trade enterprises. On the one side they have an influence on the substantive contents of the contracts (so e. g. the general conditions of the ECE or the sales unsances as formulated by the ICC, the INCOTERMS). The condtions and conventions as formulated by these organizations directly and formally define the rules of international financial transactions of the enterprises (such as letters of credit and collections of funds as governed by the ICC usances, the Règles and the Reglément). These are elements of the phenomenon which, as has been made clear above, literature has formulated as the autonomous law of international trade, as the modern *lex mercatoria.* Still the activities of these agencies influence the development of the system of civil law institutions in many other respects. The addressees of the resolutions of UNCTAD are the states rather than the enterprises, still even so these regulations may have an effect on the contracts made by the enterprises. A generally accepted UNCTAD normative is e. g. that the preferential customs duties granted to the developing countries may amount to an exception from under the GATT rule of the most-preferred nation's clause, i. e. no other country may bring forward claims to preferential tariffs on the plea of the most-favoured-nation's clause. This policy of preferential tariffs lends a greater impetus to the developing countries and among others, also to the turnover under contracts of Hungarian enterprises. What is essential here is that the Hungarian commercial customs tariffs have also been adjusted to the principle proclaimed by UNCTAD.

Among the general internationl institutions mention should be made of the role of GATT, by which it influences the development of Hungarian foreign trade. This sphere also includes the activities of the Hague Conference in the field of codification, so e. g. in the unification of the substantive law of international sales ULIS, 1964), or the International Tin Convention (interstate tin cartel), which has been joined by Hungary in 1970, and which in a concrete form and strongly influences the conditions of production, distribution, market organization and supply and demand on which Hungarian enterprises may sign international trading agreements for these products.

Although the European Economic Community, the European Free Trade Association, the Northern Council, etc. are organizations of a region-

al and capitalist character, and not such of a general character, still a Hungarian legal science work of the law of international economic relations may have to touch on them briefly. In their effects these institutions and associations namely influence the system of legal terms of Hungarian foreign trade, not to mention that Hungarian trade with the capitalist world is overwhelmingly transactid with the of the EEC and EFTA regions. These organizations and institutions seriously influence Hungarian bilateral international commercial agreements, and within the scope of them a number of branches of export trade. And the effect of the extraterritorial validity of the law of competition of the EEC on the export or cooperative transactions of Hungarian enterprises are also considesable.

(cc) The Council for Mutual Economic Assistance (CMEA) is politically, economically and legally equally the most prominent interstate institution which has a decisive influence on Hungary's foreign trade relations and their order. For the law of international economic relations as a matter of course the CMEA provisions directly regulating the economic transactions are the most relevant, provisions, namely, of which we have to speak on discussing enterprises and their contracts, such as the model statutes and uniform provisions relating to the international economic organizations, the General Conditions of Delivery of Goods and associated provisions, the agreement on arbitration, etc. Still in a discussion of the law of international economic relations we cannot omit speaking to a certain extent of the legally formulated forms and institutions which define the comprehensive strategy of the economic integration of the CMEA (coordination of plans, prognostications, joint investments, etc.), further of the decision-making legal acts by the application of which the managing agencies of the CMEA and its permanent committees bring into being the conditions for inter-enterprisal and other concrete economic operations.

(b) After what has been written theoretically of the law of international economic relations it stands to reason that the enterprises (legal entities) establishing the international economic relations will insist on a comprehensive discussion going into the depths of dogmatics in the system of this complex domain of law, and by this also on a prominent position. It is beyond argument that such a discussion will have to extend to all that is of interest. An exemplificative enumeration of the principal institutions of the corpus of law coming within this scope will include the domestic enterprises (foreign trade enterprises, industrial enterprises vested with the right of foreign trading, mixed Hungariad and foreign enterprises, foreign enterprises) together with their legal peculiarities of the nature of foreign trade, the law of the international economic organizations created or to be created within the scope of the CMEA, further the legal status of foreign enterprises in Hungary.

From the point of view of the required intensity of the legal regulation and discussion the *contracts* constitute the pernaps largest part of the law of international economic relations. What is meant here are the contracts made by the agencies referred to above by recourse to the systems of means offered by the principles and the sources of law here outlined.

(a) Even when we confine ourselves to the civil law types of contracts, to the corpus of law as understood in the sense set forth above and embracing the modern *lex mercatoria*, the list would be an extremely long one. Within this scope, after the general problems of foreign trade contracts, then appear, so to say emanating from the sources of law of municipal and international origin and with due consideration to practice and the norms of private international law, the contracts of sale, locatio conductio operis, of investment, of cooperation and specialization, for the exploitation of intellectual property, of transport and affreightment, commission (agency contracts), etc. Yet within this scope we may find the large portion of the corpus of law of domestic contracts with a foreign trade object. This is the case not only because such contracts stand for the one side of the foreign trade transaction as a whole, but also on the plea of the systematizing criterion that the regulation of these contracts takes place in the sign of the assumption not only of a domestic element but also of such of a foreign trade (economic and legal) element.

(b) It is easy to admit the affiliation of the category of contracts as detailed above to the law of international economic relations. According to the concept of the law of international economic relations, however, this category of contracts, or quasi-contractual conventions includes also those which the state signs either on a bilateral basis (interstate commercial agreements, barter agreements, minutes, etc.), or in the form of multilateral CMEA-recommendations or other conventions. These namely define most directly Hungary's foreign trade policy, and these are the conventions within the framework of which the civil law system of contracts may move. Often these are the conventions from which the civillaw contracts are directly forthcoming (see. e. g. the interstate contract on the Orenburg gas pipeline, to which from the formation of domestic enterprises onwards a set of other contracts embodying the international undertaking of obligations is attached).

Complexity insists that the contracts deal with the state-authoritative means, or those of indirect influence by which the state is intent to direct the foreign trade contracts of the enterprises in the one or the other sense. These means in all cases move together with the contracts, they are their outer envelope in which also the marshalling role of the state in foreign trade manifest itself. This sphere incorporates the licensing system of contracts, customs, credits or any other means encouraging or discouraging dontract-making of the entosprises.

The movement of commodities, services or other assets is but the one side only of the law of international economic relations. This movement is in all cases accompanied by that of the consideratin terms of money. The condensed corpus of law of this latter movement is what may be designates as the law of paymeants in international economic relations, and also discussed under this heading. In addition to problems of the law of banking transactions and payments it is here where issues of institutions appear such as those of the principal elements of currency law, the commercial forms of payments (cheques, bills, letters of credit, collection, etc.)

the order of panyments in CMEA cooperation, the role of joint banks and the multinational clearing applied also inder the General Conditions of Delivery of Goods.

The provisions governing the *settlement of legal disputes* constitute so to say the closing chapter of the law of international economic relations, and so also of a veritable business transaction whenever some sort of an irregularity arises in it. The unity of the real processes, the demand of complexity, moreover also tradition (that namely international civil procedure was once embraced by the traditional systems of private international law) all tend to confirm that this corpus of law should have its place in the law of international economic relations. Here the case is not one simply of arbitration as current in foreign trade or arbitration as adopted by the CMEA, or of ordinary legal procedure in certain cases, or the body of law of the enforcement of judgements, and its integration into the system, and not even ontly one of jurisdictions in the conventional meaning of the term. It is the case of all these and yet something else. Namely it is the case of the economic-financial liability of the states for their substantive undertakings, by the side of the general problems of which slowly the CMEA legislation purposing the legal institutionalization of this form of liability begins to unfold itself. In this connexion a study has to be made of the issue of immunity, or more explicitly of the norms which indicate that the development of socialist law points in direction of relative immunity, or in other words, that when in the sphere of civil law trancastions the state divests itself of the toga of sovereignty, something that is of everyday occurrence in the modern world, then it more and more recognizes also the consequences of this in liability and jurisdiction.

REFERENCES

Altshuler, A. B.: *Sotrudnichestvo sotsialisticheskikh gesudarstv* (Cooperation in the socialist countries) Izd. Mezhdunarodnykh Othosheniy, Moscow, 1973, p. 175.

Bánrévy, G.: *Nemzetközi kereskedelmi jogi ismeretek* (Notes on international commercal law). Stereotyped publication of the Ministry of Foreign Trade, vols I–II, Budapest, 1975. pp. 243, 244–476

Bánrévy, G.: *Néhány gondolat az UNIDROIT 50. évfordulójuról* (Some ideas on the 50th anniversary of UNIDROIT) (Proceedings of the UNIDROIT Congress on the law of international trade), Külgazdaság, vol. 1977, No. 4, pp. 49–53.

Blagoyevich, B. T.: *Quelques caractéristiques du droit économique international actuel.* Revue Internationale de Droit Comparé, vol. 1968, No. 2, pp. 273–285

Bognár, J.: *Világgazdasági korszakváltás és társadalomtudományunk feladatai* (Beginning of a new era in world economy an the task of our social sciences). Közgazdasági Szemle, 24(1977), Nos 7–8, pp. 760–774

Boguslavski, M. M.: *Aktuelle Rechtsfragen der Wirtschaftsbeziehungen sozialistischer Länder,* Staatsverlag, Berlin, 1973, p. 272.

David, R.: *Les grands systèmes de droit contemporains,* Dalloz, Paris, 1966, 640 pp.

Ehrenzweig., A. A.: *Specific Principles of Private Transnational Law,* Sijthoff, Leiden, 1968, 204 pp.

Id.: *A Treatise on the Conflict of Laws,* West Publishing Co., St Paul, 1962 LI, 824 pp.

Id.: Private International Law, vol. I. *General Part,* Sijthoff–Leiden, Oceana–Dobbs Ferry, N. Y., 1967, 293 pp.; *vol. II. Special Part* (together with E. Jayme), the same publishers, 1973, XIX, 338 pp.

Eörsi, Gy.: *Összehasonlító polgári jog* (Comparative civil law. Types of law, groups of law and the paths of the development of law) Akadémiai Kiadó, Budapest, 1975, 633 pp.

Farjat, D.: *Droit économique*. Presses Universitaires de France, Paris, 1971, 433 pp.

Filipescu, I. – **Jacota, M.**: *Drept international privat*, Editura Dodactica si Pedagogica, Bucharest, 1968, 300 pp.

Friedmann, W.: *Introduction to G. O. Z. Sunström's 'Public International Utility Corporations'* (Sijthoff Leiden, 1972, XVII, 140 pp). XI – XVII: Columbia University International Legal Research Program.

Fulda, C. H. – **Schwartz, W. F.**: *Regulation of International Trade and Investment*. University Casebook Series. Foundation Press, Mineola, New York 1970, XLIV – 796 pp.

Garner, J P.: *Public Corporations in the United Kingdom*, in 'Government Enterprises (ed. Friedmann, W. and Garner, J. F., Stevens, London, 1970, XI, 351 pp.) pp. 3 – 26.

Pravovoe regulirovanie vneshney torgovli SSSR (Legal regulation of the foreign trade of the USSR) ed. **Genkin, D. M.** Moscow, 1961.

Giles, O. C.: *Uniform Commercial Law*, Sijthoff, Leiden 1970, 200 pp.

Goldman, B.: *Droit commercial européen*, Dalloz, Paris, 1971, 712 pp.

Gutzwiller, P. M.: *Von Ziel und Methode des IPR* Schweizerisches Jahrbuch des Internationalen Rechts, 1968, pp. 161 – 196,

Ipsen, H. P.: *Europäisches Gemeinschaftsrecht*, Mohr, Tübingen, 1972, XL, 1092 pp.

Jakubowski, J.: *Umowa sprzedazy w handlu miedzy narodwym* (International sales – forms and methods of regulation, with an English summary). Panstwo Wydawnictwo Naukowe, Warsaw, 1966, 301 pp.

Juenger, F. K.: *Möglichkeiten einer Neuorientierung des international Privatrechts*. Neue Juristische Wochenschrift, 26/1973, Heft 35, pp. 1521 – 1526

Kalensky, P.: *Trends of Private International Law* Publishing House of the Czechoslovak Academy of Sciences, Prague, 1971, 308 pp.

Kiss, T.: *A szocialista nemzetközi vállalat* (The socialist international enterprise) Akadémiai Kiadó Budapest, 1974, 131 pp.

Id.: *Nemzetközi gazdaságpolitika és tervezési együttműködés* (International economic policy and cooperation in planning), Kossuth Kiadó, 1977, 341 pp.

Loussouarn, Y. – **Bredin J.** – **D.**: *Droit du commerce international*. Préface de H. Batiffol Sirey, Paris 1969, VII, 1033 pp.

Lunts, L. A.: *Private international law* (Hungarian translation, Budapest, Tankönyvkiadó, 1951, 226 pp.)

Id. – **Marusheva, N. I.**: *Kurs mezhdunarodnogo ochestnogo prava* (Course of international commercial law) *Mezhdunarodnyi grazhdansky process* (International civil suit). Yuridichesly lit., Moscow, 1976, 252 pp.

Mádl, F.: *Vívódás a valósággal a nemzetközi magánjogban. A nemzetközi magánjog elméletének fejlődése és mai irányai* (Struggle with reality in private international law. Development and present trends of the theory of private international law) Állam- és Jogtudomány. vol. 1969, No. 1, pp. 65 – 69

Id.: *A nemzetközi magánjog helyzetéről* (On the situation of private international law) Jogtudományi Közlöny 1976, No. 9, pp. 519 – 523

Id.: *Uj szakasz a magyar nemzetközi magánjogban?* (New phase in Hungarian private international law?) Állam- és Jogtudomány, 1968, No. 2, pp. 285 – 317

Id.: The Law of the European Economic Community English edition, Akadémiai Kiadó. Budapest, 1978, 330 pp.

Id.: *Foreign Trade Monopoly – Private International Law*, English edition, Akadémiai Kiadó, Budapest, 1967, 170 pp.

Id.: *A nemzetközi vállalati társulás néhány jogi kérdése, különös tekintettel a szocialista gazdasági integráció programjára* (Some of the legal issues of international enterprisal association with special regard to the socialist economic integration), Gazdaság- és Jogtudomány, 1972, No. 1, pp. 56 – 80

Id.: *A Kelet – Nyugat vállalati kapcsolatok jogi kérdése – A vállalati szintű európai-gazdasági együttműködés jogi mechanizmusáról* (The legal issues of Eastern – Western enterprisal relations – The legal mechanism of European economic cooperation on enterprisa level) Reprint of Gazdaság- és Jogtudomány, 8(1974) Nos 1 – 2, pp. 171 – 128

Id.: *Az állam a gazdaságban és az immunitás problémái, különös tekintettel a gazdasági integrációra* (The state in economy and the problems of immunity, with special regard to economic integration), Jogtudományi Közlöny, vol. 1974, No. 6, pp. 265–274.

Manser, W. A. P.: *The Multinational Enterprise.* Ed. International Chamber of Commerce, 1973.

Mezneries, I.: *Pénzügyi jog a szocialista gazdálkodásban és a nemzetközi kapcsolatokban* (Fiscal law in socialist economy and in international relations) Közgazdasági és Jogi Könyvkiadó, Budapest, 1977, 686 pp.

Pazdnyakov, V. C.: *Gosudarstvennaya monopolya vneshney torgovli v SSSR* (State monopoly of foreign trade in the USSR), Moscow, 1969.

Réczei, L.: *A nemzetközi magánjog 30 éve* (Thirty years of private international law) Jogtudományi Közlöny, 1975, Nos 3–4, pp. 225–229

Id.: *Zur Frage des Gegenstandes des internationalen Privatrechts.* Staat und Recht, vol. 1955, pp. 488 et seq.

Id.: *Internationales Privatrecht.* Akadémiai Kiadó Budapest, 478 pp.

Sárközy, T.–Fábián, F.: *Belső és nemzetközi vállalati társulások* (Domestic and international enterprisal associations), stereotyped edition of the Institute for Legal and Administrative Sciences of the Hungarian Academy of Sciences, Budapest, 1976, 448 pp.

Schmitthoff, C. M. *The export Trade. The Law and Practice of International Trade.* 5th ed. Stevens, London 1969, XXXII, 451 pp.

Id.: *Das neue Recht des Welthandels.* Rabels Zeitschrift, 28/1974, pp. 47–77.

The Sources of the Law International Trade, with Special Reference to East-West Trade. Ed. Schmitthoff, C. M., Stevens + Sons, London, 1964, XXVI – 292 pp.

Schnitzer, A. F.: *Betrachtungen der Gegenwart und Zukunft des internationalen Privatrechts.* Rabels Zeitschrift, 35 (1974), pp. 317–343

Seiffert, W.: *Der Prozess der Herausbildung des Rechtssystem der sozialistischen ökonomischen Integration.* In Sozialistische ökonomische Integration – Rechtsfragen. Red. W. Seiffert. Staatsverlag, Berlin, 1974, pp. 11–44.

Simai, M.: *A világgazdasági korszakváltásról* (On the new era in world economy), Magyar Tudomány, 1977 Nos. 7–8, pp. 513–524.

Stein, E.–Hay, P.: *Law and Institutions in the Atlantic Area.* Contemporary legal education series. Dobbs–Merrill, Indianapolis, New York, 1967, LXVII, 1152 ép.

Szász, I.: *Az Uniform Law on International Sales of Goods. The CMEA General Conditions.* Akadémiai Kiadó, Budapest, 1976, VIII – 240 pp. (English edition)

Szászy, I.: *Private International Law in the European People's Democracies,* Akadémiai Kiadó, Budapest, 1964 403 pp.

Unification of the Law Governing International Sales of Goods. The Comparison and Possible Harmonization of National and Regional Unifications, Dalloz, Paris, 1966.

Ustor, E.: *Decision-making in the Council of Mutual Economic Assistance.* Recueil des Cours, vol. III, 1971, Sijthoff, Leiden, 1971, pp. 165–295

Valki, L.: *A Közös Piac szervezeti és döntéshozatali rendszere* (Organizational and decision-making system of the Common Market) Közgazdasági és Jogi Könyvkiadó, Budapest, 1977, 492 pp.

Világhy M.: *Bevezetés a nemzetközi magánjogba* (Introduction to the private international law), University lecture notes. Tankönyvkiadó, Budapest, 1966, 234 pp.

Wiemann: *Gedanken zur Gestaltung der neuen Vorlesung 'Recht der internationalen Wirtschaftsbeziehungen'.* Staat und Recht, 1957, No. 10 pp. 1033 et seq. *Wirtschafts- und Aussenwirtschaftsrecht für Ökonomen* Autorenkollektiv. Red.: Kemper, M., Panzer, W. Pflicke, G. Rodolf, H., Streich, R. Staatsverlag, Berlin, 1977, 678 pp.

Zweigert, K.–Kropholler, J.: *Sources of International Uniform Law.* Sijthoff, Leiden, 1971/73, vols I–II and Supplement.

RECHT DER INTERNATIONALEN WIRTSCHAFTSBEZIEHUNGEN

Prof. F. MÁDL

Die immer stärkere Internationalisierung der Wirtschaftsprozesse (der technologischen Entwicklung, der Produktion und des Handles) hat eine juristische Struktur bewirkt, die über traditionelle Formen hinaus von langfristigen Kooperationsverträge bis zu dem juristischen Gebilde der wirtschaftlichen Integration führt, und im Rhamen des traditionellen internationalen Privatrechts oder anderen eng aufgefassten Rechtszweigen nicht mehr entsprechend erfasst, bzw. gefördert werden kann. Aus dieser Situation ausgehend wird in dem Aufsatz de Versuch untereommen: unter der Bezeichnung „Recht der Internationalen Wirtschaftsbeziehungen" die Rahmen einen ralativ selbständigen komplexen Rechtsgebietes und die prinzipiellen Fragen einer Disziplin gleichen Namens zu umreissen.

ПРАВО МЕЖДУНАРОДНЫХ ЭКОНОМИЧЕСКИХ СВЯЗЕЙ

Ф. МАДЛ

проф.

Научная работа анализирует изменения мировой экономики, формы международных экономических связей, которые не входят в традиционное понятие международного частного права, выходили за его пределы, а также выходили за пределы и других отраслей права: в противоположность твёрдому разграничению отраслевого права принесли факт и действительность комплексного урегулирования. Исходя из этого положения, под наименованием «право международны экономических связей», автор делает попытку включить комплексный правовой материал международных экономических связей в релаеивно отдельную связаную систему, точнее он обрисовает пределы этой системы и очеривает более важные задачи относящейся к этому дисциплины.